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IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA
IN AND FOR THE COUNTY OF SAN FRANCISCO
---oOo---

LESLIE WHITELEY AND LEONARD WHITELEY,
Plaintiffs,
vs. NO. 303184
RAYBESTOS-MANHATTAN, et al.,
Defendants.
_____/
Volume 1 Pages 1 to 127

VIDEOTAPED DEPOSITION OF
LESLIE WHITELEY
==========
TUESDAY, SEPTEMBER 14, 1999

REPORTED BY: MARJORIE FORMAN, CSR #2783
Tooker & Antz
Court Reporting & Video Services
818 Mission Street, Fifth Floor
San Francisco, California 94103
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I N D E X

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BE IT REMEMBERED that on Tuesday, September 14, 1999, at the hour of 10:22 a.m., at the Law Offices of Wartnick, Chaber, Harowitz, Smith & Tigerman, 101 California Street, Suite 2200, San Francisco, California 94111, before me, Marjorie Forman, duly authorized to administer oaths pursuant to Section 2093(b) of the California Code of Civil Procedure, personally appeared,
LESLIE WHITELEY,
Called as a witness by the Plaintiffs.

A P P E A R A N C E S

For the Plaintiffs:
Law Offices of Wartnick, Chaber, Harowitz, Smith & Tigerman
101 California Street, Suite 2200
San Francisco, California 94111
BY: MADELYN CHABER, MARTHA BERMAN and ROBERT BROWN, Attorneys at Law

For the Defendants: Golden Gate Drywall, Inc.; D. W. Nicholson Corporation.
Burnham & Brown, 1901 Harrison Street

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11th Floor
Oakland, California 94604
BY: PETER LAGASSE, Attorney at Law
For the Defendant: Metalclad Insulation Corporation
Misciagna & Colombatto
27 Maiden Lane, 4th Floor
San Francisco, California 94108
BY: SHELLEY K. LOCKE, Attorney at Law
For the Defendant: Amcord (Riverside Cement.)
Adams Nye Sinunu Walker
One Jackson Place
633 Battery Street, Fifth Floor
San Francisco, California 94111
BY: HOLLY A. GRUBS, Attorney at Law

For the Defendant: CCR Defendants named, served &
Remaining in the Action.
Haight, Brown & Bonesteel

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100 Bush Street, 27th Floor
San Francisco, California, 94104
BY: HELENE E. SWANSON, Attorney at Law
For the Defendant: Riley Stoker Corporation
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For the Defendant: Westburne Supply.
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30th Floor, One Embarcadero Center
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BY: JOJIRO TAKANO, Attorney at Law

For the Defendant: Rapid American Corporation
Thelen Reid & Priest LLP
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San Francisco, California 94111-3995
BY: Paul V. Lankford, Attorney at Law

For the Defendants: Dresser Industries
Incorporated; Slakey Brothers
Bennett, Samuelsen, Reynolds & Allard
Suite 200, 1951 Webster Street
Oakland, California 94612
BY: JOHN COWPERTHWAITE, Attorney at Law
For the Defendant: Thorpe Insulation Company,
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Sixth Floor, Home Savings Building
1730 South El Camino Real
San Mateo, California 94402
BY: SEAN P. RILEY, Attorney at Law

For the Defendant: Grinnell
Ropers, Majeski, Kohn & Bentley
333 Market Street, Suite 3150
San Francisco, California 94105
BY: MARY ELLEN GAMBINO, Attorney at Law

For the Defendant: Garlock Manufacturing,
Incorporated
Glaspy & Glaspy

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3 Embarcadero Center, Suite 1140
San Francisco, California 94111
BY: GARY F. LUNDRY, Attorney at Law

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For the Defendant: Rich-Tex, Incorporated
Imai, Tadlock & Keeney
180 Montgomery Street, Suite 1000
San Francisco, California 94104
BY: JOAN E. MARQUARDT, Attorney at Law
For the Defendants: Plant Insulation Company:
Kaiser Cement Corporation; Kaiser Gypsum Company.
Jackson & Wallace
580 California Street, 15th Floor
San Francisco, California 94104
BY: JAGJIT KAUR, Attorney at Law

For the Defendants: Atlas Heating & Ventilating;
Groniger.
Low, Ball & Lynch
601 California Street
San Francisco, California 94133
BY: MICHAEL E. SANDGREN, Attorney at Law
For the Defendants: Sugden Engineering; Martin Madsen; SB
Decking.
Walsworth, Franklin, Bevins & McCall
550 Montgomery Street, 8th Floor
San Francisco, California 94111
BY: INGRID CAMPAGNE, Attorney at Law

For the Defendant: R. J. Reynolds Tobacco Company
Law Offices of Howard Rice Nemerovski Canady Falk & Rabkin
Three Embarcadero Center, Seventh Floor
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BY: THOMAS G. SCARVIE, Attorney at Law

For the Defendants: Bigelow-Liptak; A.P. Green;
Harbison-Walker; W.A. Call; J.T. Thorpe, Inc.; Syd
Carpenter Marine:
Law Offices of Prindle, Decker & Amaro
369 Pine Street, Suite 800
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BY: JAMES PRICHASON, Attorney at Law

For the Defendant: Pierce Enterprises Company, dba Pierce
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Law Offices of Davidovitz & Bennett
Suite 750, One Embarcadero Center
San Francisco, California 94111
BY: JAMES PRICHASON, Attorney at Law
For the Defendant: Philip Morris.
Shook, Hardy & Bacon LLP

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One Market Street
Steuart Tower, Ninth Floor
San Francisco, California 94105
BY: GERALD V. BARRON, Attorney at Law and MORDECAI D.
BOONE, Attorney at Law
Also Present:
JUSTICE ROBERT L. DOSSEE, Two Embarcadero Center, Suite
1100, San Francisco, California 94111

Tooker & Antz, Certified Court Reporters and Video Services
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San Francisco, California
represented by DANIEL DeFRANK, VIDEOGRAPHER.

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(Whereupon, Plaintiffs' Exhibit Nos. 1, 2-A through 2-C were marked for identification.)

VIDEO OPERATOR: Ladies and gentlemen, we are on video record on September 14th, 1999. The time is 10:22. I am Dan DeFrank, a Certified Notary Public for the County of San Francisco, representing Tooker & Antz, 818 Mission Street, Fifth Floor, San Francisco, California 94103. Phone number is (415) 392-0650.

This is the beginning of tape 1 of volume 1 in the case of Leslie Whiteley and Leonard Whiteley versus Raybestos-Manhattan, et al., in the Superior Court of California, County of San Francisco. The case number is 303184, for the deposition of Leslie Whiteley.

The deposition is located at 101 California, Suite 2200, San Francisco, California, noticed by attorneys for the plaintiff, and the videotape is produced by the same.

Counsel, would you please identify yourselves and your clients?

MS. CHABER: Madelyn Chaber, Bob Brown and Martha Berman, on behalf of Leslie and Leonard Whiteley.

JUSTICE DOSSE: I'm Robert Dosse. At the request of the San Francisco Superior Court, I'm present to monitor the deposition with the possible modification of the General Orders in Re: Complex Litigation (Asbestos), and

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also to act as a discovery referee and rule on any objections.

MR. BARRON: I'm Jerry Barron, for Defendant Philip Morris, Incorporated.

MR. SCARVIE: Thomas Scarvie, from the Howard, Rice law firm, for Reynolds Tobacco Company.

MS. SWANSON: Helene Swanson, on behalf of the those Center for Claims Resolution defendants who are named, served and remain in the action.

MS. LOCKE: Shelley Locke, with Misciagna & Colombatto, for Metalclad Insulation Corporation.

MR. TAKANO: Jojiro Takano, from Steefel, Levitt & Weiss, for Westburne Supply.

MS. MARQUARDT: Joan Marquardt, for Rich-Tex, Inc.

MR. COWPERTHWAITE: John Cowperthwaite, for Dresser Industries and Slakey Brothers.

MS. GAMBINO: Mary Ellen Gambino, for Grinnell

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Corporation.
MS. CAMPAGNE: Ingrid Campagne, for Quintec Industries and Hamilton Materials.
MR. HUBANKS: John Hubanks, for Riley Stoker Corporation.
MR. BOONE: Mordecai Boone, for Defendant Philip Morris, Incorporated.
MR. RILEY: Sean Riley, on behalf of Thorpe

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Insulation Company.
MR. PRICHASON: James Prichason, on behalf of J. T. Thorpe Inc., Harbison-Walker, Bigelow-Liptak and Syd Carpenter Marine.
MR. LAGASSE: Peter Lagasse, for D. W. Nicholson Corporation and Golden Gate Drywall.
MS. GRUBS: Holly Grubs for Amcord.
MR. SANDGREN: Michael Sandgren, with the law firm of Low, Ball & Lynch, for Groniger & Company and Atlas Heating & Ventilating Company, Incorporated.
MR. LUNDRY: Gary Lundry, Glaspy & Glaspy, for Garlock.
VIDEO OPERATOR: The Court Reporter may swear in the witness.
MS. CHABER: Can we --
VIDEO OPERATOR: Going off the record. The time is 10:25.
(Discussion off the Record.)
VIDEO OPERATOR: Okay. We are back on the record. The time is 10:26.
MS. KAUR: Jackie Kaur, Jackson & Wallace, representing Plant Insulation, Kaiser Cement Corporation and Kaiser Gypsum Company.
MS. CHABER: And while we are -- Before we swear the witness in, I marked as Plaintiffs' Exhibit No. 1, the

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Notice of Taking Videotaped Deposition in the Plaintiff for Preservation of Testimony.
Now, could we please swear the witness in?

LESLIE WHITELEY,

having been first duly sworn, was examined and testified as follows:

EXAMINATION BY MS. CHABER

MS. CHABER: Q. Could you tell us your full name, please.
A. Leslie Jane Whiteley.
Q. How old are you, Leslie?
A. Thirty-nine.
Q. What's your date of birth?
A. 9/22/59.
Q. So you have a birthday coming up next week?
A. Yeah.
Q. You'll be 40 at that time?
A. You got it.
Q. Okay. Where were you born?
A. Ventura, California.
Q. And where do you live now?
A. [DELETED].
Q. Have you been diagnosed with a serious disease recently?
A. Yes.

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Q. What disease?
A. Small-cell lung cancer.

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Q. And when was that, that you were diagnosed with small-cell lung cancer?
A. June of '98.
Q. At the time you were diagnosed with small-cell lung cancer, were you told what your chances of curing this cancer was?
A. Chances of curing? There is no cure.
Q. Were you given any information with respect to how long you might expect to live?
A. Not specifically.
Q. How are you feeling today, Leslie?
A. A little like I'm getting a bronchial cold, but I'm hanging in there.
Q. Okay. Now, has the lung cancer spread to any other parts of your body?
A. Yes.
Q. Where?
A. My brain.
Q. And have you had treatment that involves your brain?
A. Yes.
Q. And when was the last time you had treatment involving your brain?

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A. Last week. I just had a simulation for my coming treatment for next week.
Q. Okay. And are you on any pain medications?
A. Yes.
Q. What pain medications do you take?
A. Vicodin.
Q. Have you taken any today?
A. No, not yet.
Q. Okay. We are going to go as long as you can, in terms of answering questions. If you need any kind of a break --
A. Okay.
Q. -- let us know; and if you need to take any medications, let us know, as well.
Do you feel that you are able to give your best testimony today?
A. Yes.
Q. Who do you live with in [DELETED]?
A. My husband.
Q. And what's his name?
A. Leonard Whiteley.
Q. And who else?
A. My four children.
Q. How old is Leonard?
A. He's 41.

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Q. And what does he do for a living?
A. He's a truck driver.
Q. Does he drive for a particular company?
A. Yes.
Q. Who does he drive for?
A. Concrete Express.
Q. And how long have you been married to Leonard?
A. Thirteen years, I think.
Q. You have children, you said?
A. Yes.
Q. And there are four of them?
A. Uh-huh. Yes.
Q. We've marked as Plaintiffs' 2-A, -B and -C, some

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photographs, and I'd like you to look at these photographs, Leslie, and tell us what they are, and if you would, while you are telling us, hold the pictures up to the camera.
A. Okay. This top one is my oldest, Troy. He's ten. This is my daughter, Elizabeth, who is six. This is the back of my youngest's head, he's three years old. This is Carl. And this is my fourth child, Trevor, who is eight.
Q. Okay. And the bottom picture also is Elizabeth and ...
A. Oh. Elizabeth. Excuse me. Elizabeth and Carl.
Q. Okay.
A. This was taken in the last two weeks.

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Q. And this is 2-B you are holding up?
A. Yes. This is my second to the oldest, Trevor, who is eight.
Q. And he's wearing what kind of a uniform?
A. Cub Scout.
Q. Okay.
A. Wolf Scout. He just graduated.
Q. Oh, congratulations.
A. And this is Elizabeth last year, on her baseball team.
Q. Her baseball team is called the Giants?
A. Yes. And this is Elizabeth and Carl in our backyard.
Q. Okay. Now --
A. Carl is three. Right here.
Q. And how long ago were those pictures taken?
A. The last two weeks.
Q. Okay. And then you have Exhibit 2-C.
A. Part of Leonard.
Q. We are looking at one leg --
A. I just noticed that.
Q. -- of Leonard, and --
A. This is Carl, who is three, my youngest, and Elizabeth, who is six.
Q. Okay. And -- Thanks.

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Are all of them in school?
A. But the youngest.
Q. Okay. So Troy, Trevor --
A. And Elizabeth.
Q. -- and Elizabeth all go to school?
A. Yes.
Q. And do they go to the local school?
A. Uh-huh. Yes.
Q. And what school is that?
A. Miner's Oaks Elementary.
Q. Okay. And what grade are -- are they in?
A. Elizabeth is in the first grade, Trevor is in the third and Troy is in the fifth.
Q. Okay. And Carl, being three, is he at home or is he in some kind of day care?
A. He is at home.
Q. Okay. And do you -- Are you generally the person that takes care of Carl during the daytime?
A. Yes.
Q. Where are your children, or who is taking your of your children as we are here taking your testimony?
A. My mother has Carl, and the older kids are in school right now.
Q. Okay. And then in the evening, who is taking care

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of them?

A. Leonard.

Q. Is this a fairly new experience for Leonard not to have you at home taking care of the children?

A. Very. This is only the second time I have left my children.

Q. Do you, in addition to taking care of your children, take care of the home, as well?

A. Yes.

Q. And do you -- Where you live? Do you live in a town? Can you describe where you live?

A. It's rural where I live. I live on three acres in an orchard.

Q. What kind of an orchard?

A. Orange orchard.

Q. Okay. And do you have any involvement with the running or the care of the orchard?

A. I take care of the back part where I live, which is probably, oh, I don't know, a half acre. I mow.

Q. You mow?

A. Uh-huh.

Q. Do you have animals on this property, as well?

A. Yes.

Q. What types of animals?

A. Two goats and two dogs.

Q. Okay. And do you -- do the goats -- do you milk them?

A. No.

Q. No? They are more like pets?

A. Weed eaters.

Q. Weed eaters. Okay. You don't have to do as much mowing?

A. No.

Q. In addition to working on the part of the outdoors that you do where you live, and in the home and taking care of the children, do you work outside the home?

A. No.

Q. Okay. And before you had children, did you work outside the home?

A. Yes.

Q. And what type of work did you do?

A. I did maid work and truck driving, and some nursery -- work in the nursery --

Q. Now --

A. -- for plants.

Q. I was going to say, there's two kinds of nurseries, animals and -- and plants. But this was a garden-type nursery?

A. Yes.

Q. Is your -- How old is your mother, by the way?

A. Seventy-three, I believe.

Q. Okay. And is your father still alive?

A. Yes.

Q. And how old is he?

A. Seventy-five.

Q. And is he retired?

A. Yes.

Q. When he was working -- First of all, do you live near your parents at this point?

A. Yes.

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Q. And how close?
A. A block.
Q. When your father was working, what type of work did he do?
A. He was a pipefitter.
Q. And do you know on what types of places he did pipefitting work?
A. Steam plants.
Q. Are you aware of any other --
A. Just job sites in construction.
Q. How old were you when you moved out of your family home?
A. Sixteen.
Q. And from the time until you were 16, did you live with your mother and father?
A. Yes.

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Q. And was your father doing pipefitting work during that time period?
A. Yes.
Q. And when you moved out of the house when you were 16, was your father still doing pipefitting work?
A. Yes.
Q. Would you see your dad when he would come home from work when you were living there up to age 16?
A. Yes.
Q. And would you run up and greet him when he would get back from work?
A. Oh, yes. When we were kids, we would.
Q. And did your dad play with you when he first came back from work?
A. He would have to abandon his lunch pail to us.
Q. And what do you mean by "abandon his lunch pail"?
A. Because he always had something in there for us kids.
Q. Some kind of --
A. An apple, something left over from lunch.
Q. Some kind of a treat?
A. Right.
Q. Did you have a close relationship with your dad --
A. Yes.
Q. -- as you were growing up?

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A. Yes.
Q. And do you still have a close relationship with your dad?
A. Yes.
Q. Okay. Now, you said you moved out of the house when you were 16 years old. Where did you go?
A. Newport News, Virginia.
Q. And why did you go there?
A. I got married.
Q. And who did you marry?
A. Dean Moore.
Q. Okay. And was Dean living at Newport News?
A. Yes.
Q. And what was he doing there?
A. He was in the Navy.
Q. Do you know what job Dean had in the Navy?
A. He was an engineman.
Q. An engineman?
A. He worked down in the engine rooms.
Q. Did you ever -- strike that.

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Did you live on the Naval base there?
A. No.
Q. Did live outside the base?
A. Yes.
Q. Okay. Did you ever go onto the base to visit him?

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A. Yes.
Q. Did he work on ships while he was at Newport News?
A. Yes.
Q. And did you ever go to visit him on board a ship?
A. Yes.
Q. Do you recall the name of any of the ships that he worked on?
A. Yes.
Q. Can you tell us what it is?
A. USS SAGINAW 1188.
Q. And that's its hull number?
A. Yes.
Q. And did he only work on the ship while it was at the shipyard?
A. Yes.
Q. Did he ever go out to sea on it?
A. Yes, they did.
Q. And how long a time period would he be gone for?
A. I -- I don't recall that. A couple months is -- was the -- the one cruise I remember they went on.
Q. And then when the ship would come back, would he continue to work on board the ship?
A. Yes.
Q. Did you live any other places when you were married to Dean?

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A. Yes.
Q. Where else?
A. Oceanview in Virginia. I believe it's also called Norfolk.
Q. Okay. And was that --
A. That was after Newport News.
Q. Okay. And was that also near a Naval shipyard?
A. Yes.
Q. And did Dean work at the Norfolk Naval Shipyard?
A. Yes.
Q. And do you know if he was doing the same type of work he had been doing on the USS --
A. Yes, he was still on the same ship.
Q. It was the same ship, but the ship had gone into a different shipyard?
A. Yes. It went from the -- when they were rebuilding it, and then they went to the Naval shipyard.
Q. Okay. And when you say "they were rebuilding it," was that when you were first married to him?
A. Yes. They were rebuilding the engines.
Q. Okay. And Dean, as far as you know, was involved in that work?
A. Yes.
Q. Did the -- you and Dean stay by Norfolk, or did you go somewhere else?

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A. No. We stayed in Oceanview.
Q. Okay. And --
A. It was close to the base.
Q. Okay. And did the ship go anywhere else while Dean was involved with it?

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A. Only -- The cruise I remember, they went to Cuba, I believe is where they went.
Q. Okay. Do you know if Dean ever worked on a ship in San Diego?
A. Yes.
Q. And were you living with him at the time?
A. Yes.
Q. And where were you living?
A. San Diego.
Q. Okay. And was that the same ship, the USS SAGINAW?
A. That was the USS PIGEON.
Q. Okay. And did he have the same type of a job as engineman?
A. Yes, I believe so. He may have been doing fireman work at that time, also.
Q. Okay. As far as you know, was he still down in the engine room when he was doing his work?
A. I -- I -- Hull work, too. Hull technician. There you go.

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Q. And you had gone to visit him on the USS SAGINAW when you were on the East Coast?
A. Yes.
Q. Did you ever go to visit him on the USS PIGEON on the West Coast?
A. Yes.
Q. And after San Diego, was there any place else you two went together?
A. No.
Q. And you and Dean split up?
A. Yes.
Q. Got divorced eventually?
A. Yes.
Q. And where did you move to when you and Dean split up?
A. Back home.
Q. And that would be --
A. [DELETED].
Q. Back in [DELETED]. Okay.
Now, Leslie, how far did you go in school?
A. My senior year, 12th grade.
Q. Okay. Did you graduate?
A. Yes.
Q. And what was the name of the school you graduated from?

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A. Nordhoff High School.
Q. And where is that located?
A. Ojai, California.
Q. Now, you were 16 when you graduated?
A. Yes.
Q. Did you skip any grades?
A. No.
Q. How did you get out of school at age 16?
A. I completed the 11th and 12th grade at the same time.
Q. Did that mean you were taking extra classes?
A. Yes, college prep courses.
Q. Okay. But you never went on to college, did you?
A. Only -- Yes.
Q. When did you do that?
A. Oxnard College. I took truck driving.

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Q. Okay. And did you get a license to drive a truck?
A. Yes.
Q. What type of license?
A. Class I.
Q. Now, what year was that, that you graduated high school?
A. 1976.
Q. See, this was almost a trick question. Are you very good at dates --

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A. No.
Q. -- Leslie? But you are pretty sure it was 19 --
A. '76, when I graduated from high school.
Q. Okay. And at that point in time, you were still a teenager?
A. Yes.
Q. But you went off and you got married?
A. Yes.
Q. And did you need your parents' permission to do that?
A. Yes.
Q. And they gave you that permission?
A. Yes.
Q. When you were diagnosed with the lung cancer, did any doctor tell you that smoking had anything to do with your cancer?
MR. SCARVIE: Objection. Leading question.
JUSTICE DOSSE: Sustained.
MS. CHABER: Q. When you were diagnosed with cancer, did the doctors tell you anything about what might have caused your cancer?
A. Yes.
Q. What did they tell you?
A. They told me it was most likely smoking.
Q. Now, at what age did you actually start smoking?

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A. I was 13.
Q. And why did you want to smoke at age 13?
A. I think it was more like a rite, for -- that kids do, that you go through.
Q. And what -- what do you mean by that?
A. It was like something your -- kids don't -- like a rite of passage.
Q. Okay. So, "rite," we are talking R-I-T-E, rite of passage?
A. Right.
Q. And --
A. Just --
Q. What does that mean to you, a "rite of passage"?
A. Just curiosity, to try to see what it was like, because I -- I had seen adults smoking.
Q. Okay. And can you tell us, while you were growing up, were your parents smokers?
A. Yes.
Q. Both of them?
A. Yes.
Q. And for how long a time period? You lived at home until 16, so --
A. I believe my mother quit smoking when my little brother was four years old. I do not remember her smoking at all.

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Q. Okay. You don't remember ever seeing her smoke?

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A. No. But she did used to smoke. She told me.
Q. And did she tell you why she quit?
A. She said she didn't have the time or money. She had six children.
Q. Okay. And was your father a smoker at any point during the time you were growing up?
A. Yes.
Q. And do you actually recall seeing him smoke?
A. Vaguely.
Q. And how old do you think you were at that time?
A. Probably about five. I remember seeing the cigarettes up on top of the fridge.
Q. Okay. And --
A. I may be wrong about the age.
Q. Okay. Does this --
This is sort of your -- your vague recollection?
A. Yeah. Yes.
Q. Were you aware that your father had actually quit smoking?
A. No.
Q. And did you ever have -- Did you ever have discussions with him about why he stopped smoking?
A. No.
Q. Did either of your parents, while you were growing

00029

up, tell you that cigarette smoking could cause illness or death?
A. No.
Q. Did either of your parents tell you you shouldn't smoke?
A. Not that I remember.
Q. Do you remember your first cigarette?
A. Yes, I do.
Q. Can you tell us what the circumstances of that first cigarette were?
A. Yes. The girl next door, that lived next door to me, had -- got ahold of a cigarette, and we went to a neighboring elementary school, and she knew how to smoke, and she lit it up, and she took a puff, and inhaled, and handed it to me and ...
Q. What did you do?
A. I took it, and burned my throat and coughed, but we shared the cigarette.
Q. And did you two actually finish smoking the cigarette?
A. Yes.
Q. Did you take turns taking puffs on it?
A. Yes.
Q. How did it make you feel?
A. Dizzy, and it burned my throat. I remember

00030

coughing. And it tasted awful.
Q. So did you think, "This is stupid, let's not do this anymore"?
A. Actually, no.
Q. What -- What did you think?
A. I -- I was just kind of rather proud of myself, I guess, that I actually did it.
Q. And did you continue to try cigarettes after that?
A. Yes.
Q. And how old were you when you started actually -- Well, strike that.
When you first started smoking cigarettes, did you

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buy the cigarettes yourself?
A. You mean when I was --
Q. When you first started. We know the first cigarette, your friend got.
A. Yeah. I -- I think probably the -- you know, the first -- the -- the -- the first ones that added up were probably taken from adults, but I do remember where I bought them.
Q. Okay. Where did you buy them?
A. At a vending machine on Thompson Boulevard behind a U.S.A. gas station --
Q. Okay.
A. -- for thirty cents. That was my lunch money.

00031

Q. That was the money that you had for lunch, and you -- you went to a vending machine and got cigarettes?
A. Yes.
Q. Do you recall what brand you bought?
A. Marlboro.
Q. Why did you pick Marlboro?
A. All teenagers smoked Marlboros.
Q. Were there other kids that you knew that were smoking Marlboros?
A. Yes.
Q. And had you tried a Marlboro cigarette before you bought them?
A. I must have.
Q. You don't have a recollection --
A. I can't --
Q. -- but --
A. No. But I -- I -- Just what all the kids buy.
Q. Okay. And how -- How old are you, at this point where you are buying cigarettes from the vending machine?
A. Thirteen.
Q. And did you do it openly?
A. Yes, on our way to school.
Q. Where was this gas station with the vending machine located?
A. Right across the street from an elementary school.

00032

Q. And you would pass by it on the way to your school?
A. Yes.
Q. You at that point were in junior high school?
A. Yes.
Q. And what school was that?
A. Cabrillo Junior High School.
Q. Okay. Did adults that you knew smoke in front of you?
A. Yes.
Q. Did any of your teachers at your school smoke in front of you?
A. In front of me? No.
Q. Did you see any of your teachers from your school smoking?
A. Actually smoking, no.
Q. Okay. Did you know whether or not any of your teachers smoked?
A. Yes.
Q. And how did you know that?
A. In elementary school, they would come out of the teachers' lounge with a big billow of smoke coming out with them, I remember. But, yes, I was told by one teacher that

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she smoked.
Q. Okay.

00033

A. That was recently.
Q. And -- And that was a teacher that you have seen recently --
A. Right.
Q. -- but you knew back --
A. Yes.
Q. -- when you were going to school?
A. Yes, high school then.
Q. Now, when you first started out smoking, how much were you smoking?
A. Probably anywhere from five to a half a pack a day.
Q. Okay. And did you use your lunch money pretty much every day to buy cigarettes?
A. Yes. We would bum money, also.
Q. From whom?
A. Other kids.
Q. Did people sometimes chip in to buy a pack of cigarettes --
A. Yes.
Q. -- and then share?
A. Yes.
Q. Did you have brothers or sisters?
A. Yes.
Q. Can you tell us how many and give us an idea of

00034

where in the -- the order of age you are?
A. I have five brothers and sisters, and I am the second to the youngest.
Q. Second to the youngest?
A. Yes.
Q. Okay. And did any of your older brothers or sisters smoke?
A. Yes.
Q. And how many of them?
A. Two.
Q. Okay. And who was that?
A. Becky.
Q. And how much older than you is she?
A. I believe four years. And my brother Kenny, but he's not -- he -- it was just so he could take a break offshore, because that's -- The only break they got was a cigarette break, so he started smoking to take a cigarette break.
Q. Offshore of what?
A. Offshore working. But he doesn't work offshore anymore, so he doesn't.
Q. Did he work on an oil rig?
A. Yeah. It was an occasional thing for him --
Q. When you were growing up, what --
A. -- but he did not smoke when I was growing up.

00035

Q. Okay. But did Becky?
A. Yes.
Q. And did you and Becky ever smoke together?
A. Yes.
Q. Were your parents aware that you were smoking when you were 13 years old?
A. No.
Q. When did your parents first become aware, that --

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that you know about?
A. I think it was the day I got caught smoking in the girls' bathroom. It was the first or second day of school at Nordhoff.
Q. Now, was Nordhoff a new school for you?
A. Yes.
Q. And what grade were you in?
A. At the time, tenth.
Q. And how old would you have been?
A. 14 -- 15 -- 14.
Q. 14 or 15?
A. Yes.
Q. Okay. When you started school at Nordhoff. And you said you got caught smoking in the bathroom?
A. Yes.
Q. I take it that was the bathroom at school?
A. Yes.

00036

Q. Did the school allow smoking on the grounds?
A. No.
Q. Was there more than one high school in your area?
A. Not public.
Q. Was there another high school in your area?
A. Yes.
Q. And did that school allow smoking by students on the school grounds?
A. I believe they did.
Q. When you got caught smoking a cigarette in the bathroom at school, was it -- did you say it was the first day?
A. I think it was the first or second day. It was real close.
Q. Okay. And what happened?
A. I was suspended for three days to suspension hall.
Q. Okay. How did you get caught?
A. The dean of girls walked in while I was smoking in the bathroom.
Q. Did -- did you know who she was?
A. No.
Q. Who did you think she was?
A. A student.
Q. So you got suspended. Now, was this a suspension out of school?

00037

A. No.
Q. What did you do?
A. It was a suspension hall.
Q. Okay. So you went to --
A. They didn't send kids home then.
Q. Okay. So you went to --
A. A room, all day, to sit.
Q. Okay. For how many days did you --
A. Three, I believe it was.
Q. And did any of the teachers or principals, at the time of your suspension for smoking in the bathroom, tell you you shouldn't smoke because of any health consequences?
A. No.
Q. Why did they tell you you shouldn't smoke in the bathroom?
A. It was against the rules.
Q. And why did you think it was against the rules?
A. There was no smoking allowed on campus.
Q. Why did you think that there was no smoking

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allowed on the campus?
A. Just school regulations.
Q. Did you have any association with those regulations and smoking causing health consequences?
A. No.
Q. Did you continue to smoke Marlboros throughout
00038
high school?
A. Yes and no.
Q. Okay. And what does that mean?
A. I also smoked Camels.
Q. Okay. And why did you pick Camels to smoke?
A. Because a boyfriend of mine smoked them and it was different.
Q. When you say "different," what do you mean?
A. Well, he was kind of a -- a biker type, and it -- it kind of gave it a tough thing to it, to smoke Camels.
Q. And what did you like about that idea?
A. It kind of made me tough.
Q. Were you allowed to smoke at home?
A. Yes.
Q. When did that go into effect?
A. I can't say for certain. It kind of phased in. I -- When I was 15, around.
Q. Where would you smoke?
A. In my bedroom.
Q. Now, when you got caught smoking in the bathroom at school your first day of high school, what did your parents do?
A. Well, my mom was kind of embarrassed, because here I am at a new school and getting suspended all of a sudden, but she -- You know, what could she do? I at that point
00039
already was smoking.
Q. Did she tell you you shouldn't smoke because it could harm your health?
A. No.
Q. What about your father?
A. No.
Q. After your having gotten caught smoking that one time in the beginning of high school, did you ever smoke again in the girls' bathroom while at your high school?
A. Sure.
Q. Did you get caught again?
A. No.
Q. Were you the only girl that you knew that smoked?
A. Oh, no.
Q. Did you have other friends that you knew that--
A. Yes.
Q. -- that smoked?
A. Yes.
Q. Would you see other people going -- that went to your school -- smoking?
A. Oh, Yes.
Q. And what kinds of places would you see them smoking?
A. Right out on the lawn where we ate lunch, in the bathrooms and right off campus.
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Q. Did you ever run into any of your teachers while you were going to school, but off campus, and have them tell you not to smoke?
A. No.

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Q. Now, did you know --
A. Oh. Wait. When I went to -- I went to visit my junior high school, and I saw my gym teacher one day to say "Hi," and she asked me if I was still smoking.
Q. And what did you tell her?
A. I told her yes.
Q. And did she say anything after that?
A. She told me that I should quit smoking because it would slow me down in running in my track and field.
That was the only time that any teacher ever -- now that you mentioned it, ever mentioned me to quit smoking. She said it would slow my running down, because I liked to run.
Q. Okay. And did she say anything else, any other health consequences that might happen to you?
A. No. Only that it would slow me down.
Q. Now, were you an athlete in school?
A. Not a star athlete. I just enjoyed track and field.
Q. Okay. And did you find that your smoking slowed you down at all?

00041

A. No.
Q. Did you believe your teacher when she told you that smoking would slow you down?
A. No.
Q. Do you recall taking any courses in your junior high or high school, or elementary school, for that matter, where you were told about cigarettes causing disease or death?
A. No.
Q. As a teenager growing up, did you believe that cigarettes could cause serious disease?
A. No.
Q. Death?
A. No.
Q. Cancer?
A. No.
Q. Did you think that cigarettes could do anything bad to you when you were growing up?
A. Yes. I thought they just gave you a bad cough, you know, because I had seen my grandmother coughing.
Q. Okay. What do you mean, you had seen your grandmother coughing?
A. She was -- In the morning, she would cough from -- because she smoked, and I figured that's what smoking did as -- as you got older.

00042

Q. That you got a cough?
A. Yes.
Q. Did you ever think that anything more serious would be a consequence of smoking cigarettes than getting a cough?
A. No.
Q. When you were smoking in high school, did you think that you would be a smoker for all your life?
A. No.
Q. Did you believe that you could quit smoking?
MR. BARRON: Objection. Leading.
MR. SCARVIE: Join.
JUSTICE DOSSE: Overruled.
You can answer the question.
THE WITNESS: Did I believe that I could quit

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smoking?
MS. CHABER: Q. Yes. This is while you were in high school.
A. I guess. I --
Q. Did you ever think about it?
A. No. It wasn't -- not that I recall thinking of quitting at all.
Q. And do you think that there were any things that influenced you to start smoking?
A. Oh, I'm sure. It's -- Just growing up, and candy

00043

cigarettes, the gum cigarettes, advertisements on TV.
Q. Do you recall advertisements on TV?
A. Yes, I do.
Q. Okay.
A. The Flintstones comes to mind, with the -- the Winston --
Q. What --
A. -- song.
Q. What do you remember about that?
A. Barney and -- and Fred. Fred was singing "Winstons taste good like a cigarette should." And they were hiding behind a wall smoking, while Wilma and -- and Betty were working.
Q. And what -- why do you think they were hiding behind the wall?
A. So they could sneak a smoke.
Q. I interrupted you. Were there other things that you think influenced you to start smoking?
A. Billboards that I had seen, you know. Everything -- Everybody looked healthy, white teeth, suntans, having fun.
I remember rugged Marlboro men. It -- It just didn't look like it was a bad thing.
Q. Do you want to take a little break? Want to take a little break?

00044

A. I'm fine.
Q. You're fine?
Now, you had a TV set while you were growing up?
A. Yes.
Q. And do you recall any shows that you regularly watched?
A. I remember watching, Dick Van Dyke, Disneyland, Red Skelton, Bob Hope. We would watch sections of it, because everybody had their own tastes in the house.
Q. Okay. And do you recall whether or not -- when you were growing up and watching television, whether smoking was occurring on TV?
MR. BARRON: Objection. Vague as to time.
MR. SCARVIE: Join.
JUSTICE DOSSE: You can rephrase the question.
MS. CHABER: Q. When you had a TV and, say, you were in junior high school and watching television, do you recall seeing people in the act of smoking on television?
A. Oh, Yes. Yes.
Q. And do you recall seeing advertisements for cigarette brands while you were watching television in the junior high years?
A. Yes, I do.
Q. And I think you indicated that you recalled the Flintstones and -- and Fred and -- and Barney smoking --

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A. Uh-huh.
Q. -- Winstons. Do you recall any other cigarette brand advertising that you saw on television?
A. There was Benson & Hedges, because they were always getting their cigarettes caught in elevators. Those were the long ones.
And I remember the same with the -- the -- the long cigarettes, that was the Benson & Hedges, because they were the funny ads.
I remember "I'd rather fight than switch." They had the black eyes. And Marlboro man, of course. He was always on TV.
Q. And what did you think of the Marlboro man?
A. That he was a real man. Rugged.
Q. Was there any indication, while you were seeing brand advertisement on TV, that cigarette smoking could cause serious disease?
A. No.
Q. Do you recall seeing anything while you were watching advertisements on television that indicated that cigarette smoking could cause death?
MR. SCARVIE: Vague as to time. Objection.
JUSTICE DOSSE: Sustained.
MS. CHABER: Q. During the time period that you saw cigarette advertising on television in junior high

00046

school, do you recall seeing anything that indicated that cigarette smoking could cause death?
A. No. Everybody was having a good time on those ads.
Q. And do you recall -- You mentioned billboards. Do you recall seeing billboards at any point in your life?
A. Oh, yeah. The -- Everywhere, even today.
Q. And did you read magazines or look at magazines?
A. As an adult, Yes.
Q. How about when you were a kid growing up?
A. Probably I flipped through the magazines, yes.
Q. Do you recall any particular magazines that you would look at?
A. Oh, my mom probably had something like Better Homes & Gardens around the house.
Q. Do you recall during the time period you were growing up until, I guess, you moved -- graduated high school and moved out of the house, do you recall seeing any cigarette advertising --
A. Yes.
Q. -- in magazines?
A. Yes.
Q. What did you recall?
A. Marlboro ads, always the -- the Marlboro man. Kent -- I think it was Kent, with the -- the gals with the

00047

white teeth and the suntan and the bathing suits.
There was a -- another one I remember, jet skis. I've seen people skiing, ice -- snow skiing, water skiing, but everybody was doing sports, I just -- in these pictures, I remember.
Q. And what message, if anything, did you get from seeing people doing sports in an advertisement for cigarettes?
A. You had fun. That it was healthy.
Q. Now, while you were in high school, did you run track?

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A. No.
Q. What kinds of sports did you engage in?
A. I played tennis, and just -- just the regular stuff, but I ran on my own. It was -- You know, I enjoyed running.
Q. Did you ever notice yourself getting short of breath while you were running?
A. No.
Q. Now, after your parents were no longer smoking but you were still living in the home, were there other adults around you that smoked?
A. Yes.
Q. What adults would those be?
A. My grandparents. My grandmother. My grandfather

00048

had died when I was in third grade, I believe.
MS. CHABER: I think we should take a short break now.
THE WITNESS: Okay.
MS. CHABER: I can see that look in your eye.
VIDEO OPERATOR: Going off the record. The time is 11:13.
(Whereupon, Plaintiffs' Exhibits Nos. 3-A through Z, and 4-A through S were marked for identification.)
(Recess taken from 11:13 to 11:40.)
VIDEO OPERATOR: Going back on the record. The time is 11:40.
MS. CHABER: Q. Leslie, by the time you graduated high school, how much were you smoking?
A. About a half a pack a day.
Q. And at that time, were you still going back and forth between the Marlboro and the Camel?
A. Yes.
Q. At any point in time did you stop smoking Marlboro and only smoke Camel?
A. Yes.
Q. And when did that happen?
A. I believe in the '80s.
Q. In the 1980s?

00049

A. Yes.
Q. And up until the 1980s, were you smoking the Marlboro and the Camels and --
A. Yes.
Q. Was there either one that you smoked more than the other?
A. The Marlboros, up until I smoked -- switched to Camels, until that's all I smoked, was Camels.
Q. Okay. But when you were smoking -- There was a time period, if I understood you correctly, when you were in high school, that you would smoke --
A. Camels.
Q. -- Marlboro and you would smoke Camel.
A. Camels, right.
Q. Is that right, that you were doing both?
A. Yes. Yes.
Q. When you were smoking both Marlboro and Camel during the same time period, can you give us an idea how much of -- of each?
A. Honestly, no.
Q. Okay. Now, when you were in high school and you were smoking Marlboro cigarettes before you started to

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sometimes smoke the Camels, do you recall seeing any warnings on packs of cigarettes?
A. No.

Q. When you started smoking Camels but still were smoking the Marlboros, do you recall seeing any warnings on cigarettes?
A. Yes. I -- I -- I -- I don't -- When I started smoking Camels?
Q. While you were still in high school.
A. No.
Q. When is the first time you recall actually seeing a warning on a pack of cigarettes?
A. I believe when I was pregnant.
Q. And when would that have been?
A. 1988.
Q. And that would be with your son Troy?
A. Yes. I just happened to look at the side.
Q. And do you recall what the warning that you saw said?
A. Low birth weight, or I -- I'm --
No. I read that in a magazine. I --
No. Not -- Not in particular. Not in -- You know, I just remember the Surgeon General's warnings, just -- I -- I don't recall seeing it as a teenager but as an adult only.
Q. Okay.
A. But I don't specifically remember what the warning said.

Q. Okay. And you -- you mentioned "Surgeon General." What did you understand the Surgeon General to be?
A. I -- A government -- somebody with the government. I -- I didn't know. I thought they were like a doctor, or -- I didn't -- Government. A surgeon.
Q. And what did you think that the warning meant when you finally saw one?
A. I thought that it was put there by a government, required.
Q. And why did you think it was required?
A. The government was making them do it.
Q. Did you believe what the warning said?
A. No.
Q. Why not?
A. I believed that I had also heard that the tobacco companies were saying the government had made them put the labels on the cigarettes, so I believed the tobacco companies were correct.
Q. They were correct in what?
A. In that they -- there was nothing wrong with them.
Q. You knew that there was some kind of a warning from the government on the packs of cigarettes?
A. Yes.
Q. Did you believe that the warning was put there because cigarettes could cause serious disease?

A. No.
MR. SCARVIE: Object to the leading.
JUSTICE DOSSE: Overruled.
MS. CHABER: Q. Why not?
A. I believed the tobacco companies.
Q. And what did you think the tobacco companies were saying about whether or not cigarettes could cause serious

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disease?
A. They denied that it caused cancer, and I thought that the government was just sticking their nose into business it didn't belong in.
Q. Now, at -- Earlier, you had said that you thought cigarettes could cause coughing in an older person. I think --
A. Yes.
Q. -- that's the way you put it.
A. Yes.
Q. And that a teacher had said to you it might affect how fast you could run?
A. Yes.
Q. When did you learn that cigarettes could cause something more serious than a cough in an older person or you not running as fast?
A. The day the doctor told me I had lung cancer.
Q. And up until then, what had you believed?

00053

A. That it caused low birth weight and possible crib death in children.
Q. And what made you believe that?
A. I read it in a baby magazine.
Q. Okay. And was this when you were pregnant or after you had had your first child?
A. Yes.
Q. I gave you two choices, and then you said "Yes," so --
A. I'm sorry.
Q. -- it was my fault.
A. With my first.
Q. When was this?
A. My first child. That was in '88, I believe.
Q. Okay. And so was this after Troy was born?
A. Yes.
Q. Did it -- Learning that --
A. Well, while I was pregnant, I also read that, you know, the baby magazines, so -- but I -- that was when I was just becoming aware that they were saying that smoking cigarettes while pregnant could cause a child to have a lower birth weight than normal.
Q. And what was your reaction to that?
A. I said, "Thank God I smoked."
Q. And you had said earlier that your sister Becky

00054

had smoked.
A. Yes.
Q. Had she continued to smoke up until this time in 1988 when --
A. Yes.
Q. Did -- Were you the -- Did you have your -- Did Becky have any children?
A. Yes, before me. Hers -- Hers are older.
Q. Okay. And did you and Becky ever have a conversation about smoking and low birth weights?
A. Yes.
Q. And what was that conversation?
A. She said the same thing. Her baby was a 10-pound baby and she said, "Thank God I smoked."
Q. Did you ever try to quit?
A. Yes.
Q. How many times did you try to quit?
A. Off and on. Even -- Even --

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Over what time period?
Q. Well -- Ever.
A. Yes. I -- A number? Oh, three, four times, maybe more. It -- I would go an hour or two. I mean, how can you keep count of that? It's -- That's a hard thing to do.
Q. When was the first time you recall trying to quit smoking?

00055

A. The very first time I was, I believe, 15.
Q. And what were you smoking at the time?
A. Marlboros.
Q. And about how much were you smoking?
A. Half a pack a day.
Q. And --
A. That went for an hour, and it was just --
Q. You weren't very successful?
A. No. I wasn't serious. It was just a -- an idea.
Q. What gave you the idea that you should quit smoking?
A. Dean, because he said he was leaving, and I didn't have money to buy my cigarettes.
Q. And Dean --
A. That was the reason why.
Q. Dean was your husband?
A. My boyfriend at the time, Yes.
Q. At age 15?
A. Yeah. It's -- Yeah. It was when he went into the Navy. And he just said, "Well, just quit smoking if you don't have the money." It was a -- But it didn't last.
Q. Okay. Did -- Did you try to quit smoking at age 15 because you thought that there were any health consequences --
A. No.

00056

Q. -- to you from smoking cigarettes?
A. No, that was not the reason.
Q. Do you recall making any other attempts to quit smoking, let's say, up until this point in 1988 when you've read about birth weight?
A. Yes.
Q. And can you describe your efforts?
A. I tried a few times, an hour here and an hour there, and it did not go. And one time I quit for a couple weeks, which was sheer hell.
Q. When you say "sheer hell," what do you mean by that?
A. I went through really bad withdrawals. Real bad.
Q. Describe what you mean by that.
A. Extreme dizziness. It was like it made me high. I couldn't think. I couldn't concentrate. I was very irritated and agitated, craved cigarettes very badly.
Q. And you made it a couple of weeks?
A. I did smoke in that time period, but not like I smoked -- I would go and sneak a cigarette.
Q. Okay.
A. But I -- I know I did go at least a week without one, and that was bad.
Q. What was your temperament like when you weren't smoking?

00057

A. Very moody. I was very grouchy, and -- In fact, we were on vacation. It was the worst vacation of my life.
Q. Was this with Leonard?

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A. Yes.
Q. Now, was Leonard a smoker?
A. Yes.
Q. When did you and Leonard get married?
A. In 1986, I think.
Q. And when -- What did Leonard smoke?
A. Pardon?
Q. What brand did Leonard smoke?
A. Marlboro's.
Q. Okay. And what brand were you smoking at the time that you and Leonard got married?
A. Camel.
Q. Why was this such a terrible vacation?
A. Because we weren't smoking, and most of it was drive time, and we argued about every thirty seconds, because he was going through withdrawals, as well as me.
Q. Did you go back to smoking?
A. Yes, I did.
Q. Did he?
A. Yes, he did.
Q. Did you get along better?
A. Yes, we did.

00058

Q. Why was it that you and Leonard were trying to quit smoking?
A. Because of the children.
Q. And when you say, "because of the children," what do you mean?
A. Well, at that point, we just decided it was time to quit smoking. It was ...
Q. Were health reasons a part of your consideration?
A. At the time, Leonard was coughing. Yes. He started coughing.
Q. And do you have any recollection what year we are speaking about, where you went off on this vacation and you --
A. That was in '89, I believe.
Q. And so this was after you had read about low birth weight?
A. Yes, yes. Because we had planned on having more children, also, so it was -- At that point, we became -- were becoming a family.
Q. Have you -- Are you smoking now?
A. No.
Q. When did you last smoke?
A. It was February 25th, I believe, of 1998.
Q. And --
A. I believe that was the year.

00059

Q. And why did you quit?
A. I couldn't breathe. The pain was so excruciating, I -- I could not breathe.
Q. And did any doctor tell you you should quit at that time?
A. At that time, yes.
Q. What did your doctor say?
A. He told me that if I continued smoking, I would have more attacks of chronic bronchitis.
Q. And how hard was it to quit?
A. It was very hard, but I couldn't breathe so I didn't have much of a choice. It -- It hurt. The pain was so great that the -- the pain outweighed the -- the want to smoke.

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Q. Do you still want to smoke?
A. Yes.
Q. Are there any things that -- strike that.
Are there any time periods during the day when you have greater desire to smoke than others?
A. Only -- Only when I get secondhand smoke. It kind of triggers.
Q. What happens?
A. It makes me crave a cigarette.
Q. Have you -- Since you quit smoking in February of 1998, to now, have you ever, without thinking, gone to grab

00060

for a cigarette?
A. Yes.
Q. Have you been in places where you -- since you quit in February of '98 to now, where you smell other people's cigarette smoke?
A. Yes.
Q. What does that do to you?
A. It makes me want to smoke. It -- Even later, because it triggers.
Q. You have in front of you a book of photographs that have been marked Plaintiffs' 3-A through -Z. And is this a book you put together?
A. Yes.
Q. And are you in each of these pictures?
A. Yes.
Q. Okay. I'd ask you -- We'll go through -- and I may ask you some questions about each one, but if you, when we talk about them, hold them up to the camera, as well.
What's picture 3-A?
A. That's me smoking a cigarette, I believe, at the age of 15 years old.
Q. Okay.
VIDEO OPERATOR: You have to tilt it forward because of the glare. Okay.
THE WITNESS: Is that better?

00061

VIDEO OPERATOR: That's fine. Thanks.
MS. CHABER: Q. Okay. And where was that taken?
A. On my mom's patio.
Q. Okay.
A. [DELETED].
Q. Okay. And was this at the time period when your mom already knew you were smoking?
A. Obviously, I guess.
Q. You weren't hiding, in other words?
A. No.
Q. Okay. Could you flip to 3-B?
And what is picture 3-B?
A. I'm standing with a cigarette in my hand.
Q. And where are you?
A. In [DELETED].
Q. At what type of location? I'm trying to see where --
A. Swimming pool. That's in my mom's backyard.
Q. Okay. And how old were you then?
A. I believe 16.
Q. Okay. I notice in these early pictures when you were 15 and 16, that you had long hair. Obviously, you don't have long hair now.
A. I hadn't cut it since.
Q. Okay. When -- You hadn't cut your hair --

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00062
A. I had cut it once, but since then it had been like 23, 24 years since I had cut my hair.
Q. Okay. And did -- the hair style that we see now, did that result from any of your treatments?
A. It sure did.
Q. Okay. It wasn't your choice to have very, very short hair?
A. Definitely not.
Q. Okay. Picture 3-C, what are we looking at there?
A. I live in Norfolk, Virginia here.
Q. Okay. And are you the person in the center of the picture?
A. Yes. Right here.
Q. Okay. And who are the other people, if you know?
A. This is John Milliken, I believe. I don't remember the other couple's name.
Q. Okay. And was -- are these friends of yours when you were living in Norfolk?
A. Yes.
Q. And how old were you then?
A. Seventeen.
Q. And are there cigarettes there?
A. Yes.
Q. And I see what looks like maybe beer cans?
A. Yes.

00063
Q. Did you drink over the years?
A. Yes.
Q. Do you still drink?
A. No.
Q. When did you stop drinking?
A. Eleven and a half years ago.
Q. Okay. And why did you stop drinking?
A. To have a family.
Q. Could you turn to 3-D. And what's that a picture of?
A. Me smoking.
Q. And where are you?
A. In Hawaii.
Q. And how old are you?
A. Seventeen.
Q. And what were you doing in Hawaii?
A. On vacation with my parents.
Q. Okay. And was that after -- after you were married?
A. Yes.
Q. And were you still with Dean at the time?
A. Yes.
Q. And where -- where was Dean? Did he go to Hawaii, too?
A. Yes, Yes. They took the whole family.

00064
Q. Okay. 3-E?
A. This, I was 16 and at home. I believe I was 16. That's because they are stamped on the back.
Q. Okay. So some --
A. So that's how I got the dates.
Q. The dates, you got from the actual photographs?
A. Yes.
Q. Okay. And if a photograph doesn't have a date, it didn't have one on the back?
A. Right.

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Q. Okay.
A. It's approximate.
Q. Okay. So you were 16. And do you have a cigarette in your hand in that picture?
A. Yes, I do.
Q. And where is that? Is that in your parents' home?
A. Yes. That was my bedroom.
Q. And 3-F?
A. I'm right here, smoking.
Q. Is that you playing a guitar?
A. Yes.
Q. That's something you liked to do?
A. I used to.
Q. Okay. And you've got a cigarette in your hand?
A. Yes.

00065

Q. Okay. And where is "Camp Comfort"? I see it says on the bottom.
A. It's [DELETED].
Q. And about how old were you there?
A. It was in 1981, '82. I -- Do the math.
Q. Okay. We'll figure that out. You were born in 1959, correct?
A. Correct.
Q. At this point in time, were you still married to Dean?
A. I don't -- No, I wasn't. I don't think so.
Q. Okay.
A. No.
Q. Okay. And did you have a second husband?
A. Yes.
Q. And what was his name?
A. Wesley Imhoff.
Q. Okay. And did Wesley smoke?
A. Yes, he did.
Q. And what did Wesley smoke?
A. Winstons.
Q. Did you smoke his Winstons?
A. No. They didn't taste good.
Q. Okay. What were you smoking while Wesley was smoking Winstons?

00066

A. I was smoking -- That's when I switched over to Camels, was that time period in there, from Marlboros to Camels for good.
Q. For good?
A. Yes.
Q. Okay. And from that point on, did you remain a Camel smoker?
A. Yes.
Q. We have several pictures on a page labeled thirty -- 3-G, rather. Can we start up at the top, and if you can indicate the picture.
What does that show?
A. I'm smoking a cigarette in each of the pictures here.
Q. Okay.
A. This is in Ventura, California.
Q. Do you know how old you were there or what year?
A. This is in the '80s.
Q. Okay.
A. And I'm smoking a cigarette here. This is in [DELETED].

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This is in my mother's backyard in [DELETED]

Q. Okay. And who -- who are the other people?
A. This is my sister Becky and my husband's daughter,
00067
Laura.
Q. Okay. And your husband Leonard?
A. Right.
Q. Yes.
A. And this is in my mother's backyard.
Q. And who is sitting on your lap?
A. Laura.
Q. And do you have a cigarette in your hand?
A. Yes. And this says "1983."
Q. Okay. And that's before you had any children?
A. Right. And this is the -- the same areas, in
front of Leonard's mother's house and then in the
Matilija Canyon.
Q. Okay. And that's 3-H that we are looking at.
What is 3-I?
A. This is a friend of mine's daughter sitting at the
table when me and Leonard lived at his mother's house.
Q. Okay. And what's on the table in front of her?
A. Our cigarettes.
Q. And what brands? Can you see them?
A. That's Marlboro and Camels.
Q. Okay. And the Camels were yours?
A. Yes.
Q. And the Marlboros were Leonard's?
A. Yes.
00068
Q. And 3-J?
A. This was in Ventura, California. It shows the
ashtrays. Me smoking. And this is in Matilija Canyon.
Q. Now, we are on to 3-K. And, again, cigarette in
your hand?
A. Yes.
Q. Holding a puppy?
A. Yes. Plumb crazy.
Q. And we are on 3-L. What do we have there?
A. I can't see upside down on this one. Smoking in
all the pictures. This is Leonard's daughter, so this is
in 1983.
Q. And 3-M?
A. This is our wedding day. We are opening presents
and smoking.
Q. 3-N?
A. This is when I was pregnant with my first child
and I'm sitting there smoking a cigarette.
Q. Okay.
A. And this is --
Q. We are on 3-O.
A. When my first child Troy was born. I had had a
C-section, and we had been smoking when I was supposed to
be doing the exerciser.
Q. Okay. So on one side of you is the --
00069
A. My breather.
Q. -- the breather that you are supposed to be using,
and the other side is --
A. This shows it. You can see we had been smoking in
the room. But the baby wasn't in there.
Q. This is in the hospital room?

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A. Yes. Hospital room pictures.
Q. When you went to the hospital to have Troy --
A. Troy. 1988.
Q. -- did anybody tell you you shouldn't smoke in a hospital room?
A. No.
Q. Did doctors come in and out --
A. Yes.
Q. -- of the room?
A. They just said, "Don't smoke when the baby is in there."
Q. Okay.
A. This is the -- the same here.
Q. 3-P is more in the hospital?
A. Yes.
Q. With cigarettes?
A. Yes.
Q. 3-Q?
A. This is in my kitchen. There's a carton of

00070

cigarettes sitting behind me, and they are Camels.
Q. And -- And which baby is that?
A. This is Troy, my oldest.
Q. Okay.
A. I'm sorry.
Q. Would you try at that point in time not to smoke around Troy?
A. We smoked outside.
Q. Okay.
A. Outside the house.
Q. 3-R?
A. Right. This is camping up in the Sequoias. I'm smoking and barbecuing.
Q. And 3-S?
A. December 1990, I was pregnant with Trevor.
Q. Now, at that point in time, you had the information about that smoking could affect your baby?
A. Yes.
Q. And --
A. I couldn't quit.
Q. Did you try?
A. Not while I was pregnant with Trevor, no. I did not make any attempts.
Q. Okay. Had you tried before?
A. After Troy was born. That -- The failed attempt.

00071

Q. Okay. All right. And was Trevor -- How big was Trevor when he was born?
A. He was seven -- 7 pounds 5 ounces, I believe.
Q. Okay. Normal birth weight?
A. Yes.
Q. And, by the way, had Troy been born --
A. Yes, he was.
Q. -- a normal birth --
A. Yes, but he was just a C-section.
Q. And how big was he?
A. He was 7 pounds 14 ounces, I believe. There's one ounce between them.
Q. Okay. What's 3-T?
A. I'm sitting on my mother-in-law's porch, smoking.
Q. And it says "Approximately 1991"?
A. Yes.
Q. And 3 --

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A. I'm wearing Camel -- a Camel t-shirt.
Q. Okay. So in those pictures, you have on a t-shirt and it says something across the -- the left side of the t-shirt?
A. "Camel."
Q. And where -- where did you get that from?
A. From Camel.
Q. And 3-V?

00072

A. This shows my cigarettes on the table here.
Q. Okay. That's not you, obviously --
A. No. This is my mother.
Q. -- in the picture?
A. Right. But they were my cigarettes.
Q. Okay.
A. And I am smoking down here. This is in 1997 with a question mark.
Q. Okay.
A. Because I wasn't sure. But it -- it was more recent.
Q. Closer to the time you got sick and --
A. Yes.
Q. -- stopped smoking?
A. Yes.
Q. And what's 3-W?
A. This is the day my youngest, Carl, was born. I had not even made it home from the hospital yet and was smoking. We took a pit stop so that I could stop and smoke.
Q. Okay. And next page?
And Carl is three now, so --
A. Yes.
Q. -- we can figure out what year that was.
3-X?

00073

A. This -- This shows ashtrays that I had been smoking sitting next to. This is at my mother's house in the '90s.
Q. Okay. And 3-Y?
A. This is the most recent pictures of me smoking.
Q. Okay. And you think those were in 1997?
A. Yes.
Q. Now, I see your -- Do you want take a sip of water?
A. I'm fine right now.
Q. I see you're leaning up against a motorcycle.
A. Yes.
Q. Do you ride motorcycles?
A. Yes. My husband rides. I sit on the back.
Q. Okay. And how long have you enjoyed -- I take it you enjoy riding motorcycles?
A. Yes.
Q. And how long have you enjoyed that?
A. Ever since I've been with Leonard, we've had our motorcycle -- we've had a motorcycle. This is a different one from the other one, but it's -- it's one of our hobbies.
Q. Do you wear a helmet when you ride on the motorcycle?
A. Yes.

00074

Q. Could you go on to the next?
A. Well, okay. This is a --

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Q. And that's 3-B?
A. -- a result.
Q. This was taken March 6th of this year?
A. Yes.
Q. And you say it's "a result." A result of what?
A. My smoking.
Q. And I take it you had some chemotherapy?
A. This was from brain radiation.
Q. Okay.
A. That was the second time I lost my hair.
Q. Now, do -- do you have more hair now than you did in that picture in March?
A. Oh, Yes.
Q. This is the long version?
A. This is the third time I've lost my hair.
This is just a shave.
Q. Okay.
A. So it won't be as long.
Q. Now, when you --
Are you okay to go on, or do you want to take a --
A. Yeah. I just need a drink.
Q. I'm thinking about going about ten minutes or so longer and taking our longer break for you to lie down. Do

00075

you think you can make ten more minutes?
A. Yeah.
Q. Did you ever try to switch to -- strike that.
When you were smoking Camels --
A. Yes.
Q. -- you began that as a full-time brand when you married Leonard, or --
A. Before.
Q. Before then.
What type of Camel cigarettes did you smoke?
A. Camel Lights.
Q. Okay. Now, when did you start smoking Camel Lights?
A. I was with my ex-husband, Wesley, at the time, and his brother had a pack of Camel Light cigarettes and offered me one, and he said, "Try one." And I tried it and I really liked it, and I smoked them ever since.
Q. Okay. What were you smoking at the time that Wesley's brother offered you a Camel Light?
A. Marlboros.
Q. So when you switched to Camels on a full-time basis, you switched right into the Light cigarettes?
A. Yes.
Q. Now, was there anything special about the Light cigarettes to you, other than the taste?

00076

A. They were light. I did believe they had less whatever they said was in it.
Q. Did -- What did "light cigarette" mean to you? What did you think was lighter?
A. The -- The tar and -- and -- Tar. You know, I think tar, you think of the beach, and I thought, "Gross," you know? So I figured I wasn't getting all that.
Q. Did you understand that tar could cause health problems?
A. No.
Q. When you were smoking the Camel Lights, was there a particular type of Camel Light that you smoked?
A. I -- I started out on the Camel Light Shorts, and

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then when they came out with the 100s, I -- I was -- that's all I smoked.
Q. Now, about how much were you smoking of Marlboros when you switched to Camel cigarettes?
A. Probably a pack.
Q. And when you switched to Camels, you switched right to the Lights, is that right?
A. Right.
Q. Did you ever smoke Camel regulars?
A. Yes.
Q. When was that?
A. In -- In high school.

00077

Q. Okay. So when you were going back and forth between the Marlboro and the Camel in high school --
A. Yes.
Q. -- were those light cigarettes?
A. No.
Q. Which were -- were they?
A. They were the no-filter, the Camel straights.
Q. Camel straights. Okay. No filter?
A. Un-un.
Q. Okay. Did the Lights have a filter?
A. Yes.
Q. And the -- When you switched from the Marlboro to the Camel Lights and it became your full-time brand, how much did you smoke of the Camel Lights?
A. A pack, and eventually up to a pack and a half.
Q. When you smoked the Camel Lights, did your amount of cigarettes, the amount you consumed, increase?
A. Yes, it did.
Q. Did you have a particular pattern of smoking cigarettes throughout the day?
A. Just all day long, whenever my body told me it needed one.
Q. And how -- how would you -- your body tell you that? What -- What were the symptoms or the words?
A. A strong urge, you know, that you need -- you have

00078

to have a cigarette.
Q. Have you -- When would you have your first cigarette when you got -- when you got up?
A. As soon as I woke up in the morning.
Q. And about how often would you smoke cigarettes throughout the day?
A. I smoked a lot in the morning with my coffee. Probably I could smoke five to seven cigarettes, you know, for -- drinking coffee, depending on how many cups of coffee I had. I always had a cup -- a cigarette to a cup of coffee. So depending on how many cups of coffee I had is how it went.
Q. Okay. Did you smoke the same amount or more or less in the morning versus other times of day?
A. More in the morning.
Q. When you were smoking, did you inhale?
A. Yes.
Q. Did you always inhale?
A. Not the first time, because my girl friend had to teach me.
Q. Once you learned how to inhale, did you always inhale --
A. Yes.
Q. -- your cigarettes?

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A. Yes. It tasted icky if you didn't.

00079

Q. Which cigarette would you have hated to give up most during the day?

A. First one.

Q. And why is that?

A. It's the one you smoked to start the day with. You gotta get your body going.

Q. Were there times that you were in places where you couldn't smoke, like a church or a movie theater --

A. Uh-huh.

Q. -- where you would have to leave in order to go get a cigarette?

A. Yes.

Q. And can you describe some circumstances where that occurred?

A. Well, we wouldn't -- we would go to the drive-in, so we could smoke. We would have to leave the kids' campus to smoke off campus, because they smoked -- a law, you can't smoke on school grounds, so we'd walk out to the sidewalk, just like I see everybody here's doing.

Q. And "here," you are pointing outside --

A. Yes.

Q. -- my office building?

A. Yes.

Q. Are you somebody who went to church regularly?

A. For a time, we did. It's -- It's hit and miss.

00080

Q. Did you ever find it hard to sit through the whole service without a cigarette?

A. You'd think about it. You would think about smoking like, you know, hurry up and quit preaching so we can go out and have our coffee and cigarette after the service, yes.

Q. And when the service was over, would you go out and have a cigarette?

A. Oh, yes, I would.

Q. When -- I'm going to talk to you about the time period up until the period in February of '98, when you stopped smoking for good.

Before then, when you were sick, like if you had a cold or the flu, would you smoke?

A. Yes.

Q. Did you smoke through the birth of any of your children?

A. Yes. I smoked on the way to the hospital.

Q. Do you remember which child?

A. Probably all of them.

MS. CHABER: I think this is probably a good time for a lunch break, give you a chance to lie down for a while.

VIDEO OPERATOR: This is the end of tape 1 of volume 1 of the deposition of Leslie Whiteley. Going off

00081

the record, the time is 12:21.

(Whereupon, the noon recess was taken from 12:21 to 1:44.)

(Whereupon, Plaintiffs' Exhibits Nos. 5-A through 5-OO and 6 were marked for identification.)

VIDEO OPERATOR: This is the start of tape 2 of volume 1 in the deposition of Leslie Whiteley. Going on the record. The time is 1:44.

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MS. CHABER: Q. Leslie, in front of you there is a packet that has a label on it that is labeled 4-A. Do you see that?
A. Yes.
Q. Can you see that?
A. Yes.
Q. By the way, are -- is your vision somewhat affected?
A. Yes, it is.
Q. And has that been as a result of treatment that you've gotten?
A. Yes.
Q. And what effect on your vision has there been?
A. I have like a -- fluorescent spots in my vision, and it interferes with reading.
Q. Okay. Does it happen to you constantly, all day?

00082

A. Off and on, yes.
Q. But off and on?
A. Yes.
Q. So there are times when you can see things better than other times?
A. Yes. Yes.
Q. Okay. What time is this one?
A. I'm -- I'm fine.
Q. Okay.
A. I can see these.
Q. Okay. Can you look through Plaintiffs' Exhibit 4-A through -Z and just tell me if these are ads that you are familiar with for Marlboro cigarettes?
MR. BARRON: Objection. Leading and suggestive.
And could we see what the witness has been shown?
JUSTICE DOSSE: As to the second --
MR. BARRON: Yes.
JUSTICE DOSSE: Have they been shown yet?
MS. CHABER: Probably not. I actually thought there were copies of these, and there aren't. I will be happy to have copies made for counsel.
MR. BARRON: Could we possibly do it now, so we can follow her testimony, if you plan on asking her --
MS. CHABER: I could do it if we did it in black and white. I can't do it in color and do it now.

00083

MR. BARRON: That would be sufficient for now, sure.
MS. CHABER: I wasn't actually going to ask her about individual items, but --
You still want all of the individual ones being done? Okay.
We need to stop while I go find someone to do that.
VIDEO OPERATOR: Okay. Going off the record. The time is 1:46.
(Recess taken from 1:46 to 1:52.)
Back on the record. The time is 1:52.
MS. CHABER: Q. Leslie, I've handed you some photocopies labeled 4-A through -S. What -- What are those?
MR. BARRON: Could we just put on the record that you did just misspeak, accidentally, when you said earlier "4 through Z"? I don't want the record to reflect that we have withheld any from the package.
MS. CHABER: That is correct. It's 4-A through

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-S, the letter S, and counsel have now been provided copies.
THE WITNESS: Yes.
MS. CHABER: Q. Yes? What are those, Leslie?
A. I forgot what the question was.

00084

They are advertisements.
Q. Okay. For what?
A. Marlboro.
Q. Okay. Are -- Have you reviewed what's in front of you as 4-A through -S?
A. Right now?
Q. Or in the past.
A. Yes.
Q. And do you recognize those Marlboro advertisements that are marked 4-A through -S?
A. Yes.
Q. Do you recognize those as advertisements that you have seen over the years?
MR. BARRON: Leading and suggestive.
JUSTICE DOSSE: Overruled.
You can answer the question.
THE WITNESS: Yes.
MS. CHABER: Q. Was -- Were advertisements for Marlboro something that you saw during the time period you were smoking Marlboros?
A. Yes.
Q. And did you see advertisements for Marlboros after you no longer smoked Marlboro but had switched to Camel?
A. Yes.
Q. Is there any one of the ads in 4-A through -S that

00085

you recall more vividly than any of the others?
A. The -- The Marlboro --
Q. Okay.
A. -- the Marlboro man.
Q. Two things. One, could you tell us what the number is that's on the little tag there?
A. Okay. 4-B.
Q. Okay. And would you hold it up to the camera, please? And what do you recall about that ad?
A. That was the Marlboro man. He -- He -- He stood for Marlboro, and he is -- was everywhere.
Q. Any others?
A. And the cowboys, 4-C.
Q. Do you want to hold that one up?
VIDEO OPERATOR: Tilt it forward a little bit.
Thank you.
THE WITNESS: 4-O. What do you -- Do you want me to show all of them?
MS. CHABER: Q. What do you -- You know, you recall these. I'm just asking you if there are any that stick out in your mind more than others.
A. The -- The ones with the horses and the cowboys, specifically.
Q. And was there anything in that advertising of the cowboys or the horses that had any message that you got out

00086

of it? In other words, when you looked at that, what did you think?
A. Real men smoked Marlboros.
Q. Now, you also have in front of you, to your right, my left, a stack of materials in there marked 5-A through

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OO.
A. Okay.
Q. Are the items in 5-A through OO that are in front of you, are those times that you have seen before?
A. Yes.
Q. And what are they?
A. Camel ads.
Q. And when did you see the Camel ads that are in 5-A through OO?
MR. BARRON: Objection. It's too general as to specific ads in time.
MR. SCARVIE: Join.
JUSTICE DOSSE: Sustained.
Are you talking about a --
MS. CHABER: No. Fair enough. I'm --
Q. Did you see ads for Camel cigarettes when you were smoking Camel cigarettes?
A. Yes.
Q. And are the ads that are in 5-A through AA -- OO, rather, are those some of the ads that you saw during the

00087

time period you were smoking Camel cigarettes?
A. Yes.
Q. And are there any in that stack of exhibits, Exhibit 5, that are more vivid in your mind of having seen while you were smoking than others?
A. Yes.
Q. And can you identify both the exhibit number that's on the tab and show them to the camera when you are identifying them?
A. 5-B.
Q. And what about 5-B?
A. The -- The smooth Camel guy.
Q. And what did the smooth Camel guy mean to you?
A. I thought he was kind of cute.
Q. Any others?
A. 5-C.
Q. And what is 5-C? That's kind of small. I don't know if the camera can --
A. It's a picture of a hat. I believe my husband had one.
Q. Okay. And this is your husband Leonard?
A. Yes.
Q. Okay. And what does it say on that, for those of us that can't see that far?
A. "Smooth Character."

00088

Q. And a picture of?
A. A Camel smoking a cigarette.
And 5-E.
Q. And what -- what do you recall about 5-E?
A. The motorcycle. This is -- This was the part of the ads that I really liked.
Q. And did that character that's on the motorcycle have a name?
A. I'm not sure what his -- Biker Joe, that's who he was.
Q. Okay. And what did you like about Biker Joe?
A. That he was a biker and he rode motorcycles.
Q. Any others?
A. 5-D.
Q. And who is that?
A. I don't know their names, but I -- They came in

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the mail to me all the time, the catalogs --
Q. Now --
A. -- so I am familiar with --
Q. Okay. Now, when you say they came in the mail to you all the time, the catalogs, what -- tell us what you mean.
A. They had Camel cash catalogs, and we regularly received them in the mail.
Q. And what is "Camel cash"?

00089

A. It was coupons on the cigarettes that you can purchase items from Camel.
Q. So how did it work? Tell me the process.
A. You purchased cigarettes and collected the coupons, saved them up until you had enough of what they called some "C notes," also, and they had lots of neat stuff that you could send away for in exchange for the C notes.
Q. And was this something that you did? That is, collect --
A. Yes.
Q. -- Camel cash?
A. Yes.
Q. And did you collect anything for any other cigarette brand?
A. Yes. From Marlboro. They had the Marlboro miles.
Q. Okay.
A. They come up with that, I guess, to keep up with Camel.
Q. And how did the Marlboro miles work?
A. You collected miles, and they had items in catalogs that cost so many miles; sometimes plus cash, also.
Q. So sometimes, you'd have to add money in -- For -- I think it was for postage. Leonard did most of

00090

the -- the trading on those.
Q. Okay. Did you receive merchandise that had either the Camel or the Marlboro name on it?
A. Yes, we did.
Q. And over what period of time did you collect items with either "Camel" or "Marlboro" on it?
A. An estimated five years. I -- That's a guess. It's a guess, because I didn't -- you know.
Q. Okay. Any other, looking at Exhibit 5, that particularly stand out to you as ones that you recall seeing?
A. All -- All of them, actually, because they sent so many catalogs that they all had a different theme on them. The -- The night life guys.
Q. You are holding one up now. What exhibit is that?
A. 5-F.
Q. And can you show it so the camera can see it?
A. Oh. I'm sorry.
Q. That's okay. All right.
And the night life --
A. And the -- then they had the -- the pool hall players. I remember them. That's a little small --
Q. Yeah, I think there may be a bigger one, actually, but you recall the pool --
A. It's 5-G, but -- Yes. The pool table shots, I

00091

remember them.

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And lighters. There was always lots of lighters.
Q. And did you receive any of the lighters?
A. Most likely, Yes.
And I vividly remember this guy.
Q. And you are showing 5 --
A. 5-I.
Q. And --
A. He's been on billboards, I believe, also, and -- and -- as well as in the -- the things I received in the mail.
Q. Okay.
A. And this is a pair of skivvies, 5-J. I recall specifically seeing them in the catalog.
Q. Okay. Did you ever get those?
A. No, but we did get a pair of Camel thongs. That's why I remembered this one.
Q. Okay. And that is --
A. 5-K.
Q. 5-K. And --
A. When you walked, it said "Camel."
Q. Okay. So as we are looking at the back of it, "Camel" reads backwards, but as you stepped down in the sand --
A. It would read "Camel." They broke.

00092

And this guy was on the money. He's --
Q. That's 5 --
A. I think that's an L.
Q. L. Okay.
And do you know who that's supposed to be?
A. It's the cash -- cash Camel. I -- He was on the money.
And here is Biker Joe.
Q. And that's 5-M?
A. Yes.
Q. And when you looked at a Biker Joe Camel ad, what did you think of?
A. Cool. It fit in to our lifestyle. And I remember seeing them playing pool.
Q. Okay. That's 5 --
A. 5-N. And I -- "Smooth Character."
Q. And that's 5 --
A. 5-O.
Q. -- O.
A. And I believe my husband had a t-shirt with this guy on it --
Q. And that's --
A. -- coming through the bricks.
Q. -- 5-P. Okay.
A. And the "Vote for Joe" campaign, I remember well.

00093

Q. And tell me about that campaign.
A. It was just a period of time. I don't recall if it was during presidential elections or not, I'm assuming it was, but I remember it because my sister has an "Elect Joe" bumper sticker on her car.
Q. Okay. And those two, the "Elect Joe," is --
A. 5-Q and 5-R.
Q. Okay. And what were you electing him for?
A. To be Joe Cool, I guess.
Q. Okay.
A. It was better than what people were voting for at the time.

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Q. I won't ask what year that was.
A. And then the wides, and it's because it had the motorcycle, I remember.
Q. Okay. You never smoked the wides, did you?
A. I have tried them. My husband smoked the wides occasionally.
And the salt and pepper shakers, 5-T, I have seen in the catalog. And my sister might even have some.
And here's the cash Camel.
Q. Okay. And that's 5-U?
A. U, Yes.
Q. Can you --
A. And I just -- Just the Joe Camel cash is --

00094

Q. And that's 5 --
A. V.
Q. -- V.
A. More Camel cash.
Q. 5 -- W?
A. W. And here is what the Camel cash looks like, 5-X.
Q. Okay.
A. At that time. Because they changed it. There were different --
Q. There were different --
A. C notes.
Q. C notes. Okay.
A. This picture, I had one of these, my children played with it. It was soda holder, or whatever else to drink, 5-Y.
Q. Okay. And it's the head of the Joe Camel with a cigarette in his mouth?
A. Yes.
Q. And you put a can -- a tin can in it?
A. Uh-huh.
And this was a catalog.
Q. For the cash, and you'd pick out whatever you were going to pick out?
A. Right. That was 5-Z.

00095

And this one, because I -- we ordered the cups, the coffee cups, so I assume we also had that --
Q. Catalog?
A. -- catalog.
Q. That's 5-AA.
A. And I believe I have seen this t-shirt.
Q. That's 5-BB. Do you know if it's one -- did you own t-shirts that had --
A. Yes, but I don't recall if we ordered a sleeveless one or not. And I just remember the -- the road trip campaign.
Q. And that's 5-CC?
A. Yes. And I just remember these from seeing them on the catalogs.
Q. Okay. That's 5 --
A. DD.
Q. DD.
MR. BARRON: I'm sorry?
MS. CHABER: DD.
JUSTICE DOSSE: DD.
THE WITNESS: And then the cash Camel guy.
MS. CHABER: Q. 5-EE.
A. Same.

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Q. More cash --
A. Camel, Yes.

Q. 5-FF.
A. And this was the newer Camel cash.
Q. Okay. And that's 5-GG?
A. Yes. And more Camel cash, 5-H --
Q. H.
A. -- H.
More Camel cash.
Q. 5-II.
A. And I remember seeing this mug in a -- in a catalog.
Q. That's 5-JJ.
A. And the biker Camels.
Q. No. Any particular --
A. Because they were on motorcycles.
Q. And what was that, 5 --
A. Oh. 5-KK. And because he's on a motorcycle.
Q. And that's 5 --
A. LL.
5-MM, Biker Joe.
And I remember, I think they had a contest on winning a Harley-Davidson.
Q. And was that a contest you entered?
A. Yes. I think they were giving away a free motorcycle at one time.
Q. Did you win?

A. No.
And we -- I have had -- We have had Camel matches.
Q. And what's the --
A. 5-OO.
Q. OO.
Did you ever receive items with the name "Camel" on it in the mail that you had not sent away for with Camel cash to get?
A. Yes.
Q. What kinds of items?
A. Cigarettes and matches. And if they didn't have an item you were ordering, they also would send you extra C notes back -- not C notes, but a -- a voucher, sometimes.
Q. Now, you said you received cigarettes in the mail?
A. Yes.
Q. And would this be the same pack that you would go buy at a store?
A. Yes. I received a -- a whole carton one time, just in the mail. I didn't ask for it, it just came.
Q. Did you ever receive cigarettes that were in smaller packs than the packs that they sell in the stores?
A. What it was, they'd give you two packs of cigarettes, and they were a special packaging, like maybe at Christmastime, or they were trying, I guess, a new brand, or angle, or something, and they would -- they were

like collector cigarettes, but we smoked them.
Q. You didn't save those?
A. No.
Q. Are there other items that you received unsolicited in the mail?
A. Yes.
Q. What else, besides cigarettes?
A. Matches and coupons, many coupons.

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Q. What kind of coupons?
A. For free cigarettes, and for ten dollars off, I think they were -- No, not ten dollars off cartons. Three dollars off cartons, I think, was the norm on that. But they -- we would get a -- you know, enough to keep you in supply of coupons for buying cartons of cigarettes.
Q. Now, was this something that you received only from Camel?
A. Mostly, yes. I -- I never received any Marlboros in the mail.
Q. Okay. Now, you did send away for some items where you had saved either Camel cash or Marlboro miles, is that correct?
A. Yes.
Q. And do you have all of the items that you sent away for?
A. Not all of them, but a lot of them, Yes.

00099

Q. Okay. And did you bring those here with you?
A. Yes.
Q. Are they here in the room?
A. I'm told they are.
Q. You -- Look around behind you.
A. Yes.
Q. Do you see some of the items?
A. Yes. I see the pile.
Q. Okay. We've marked as Plaintiffs' Exhibit 6, some photographs of the different items that you brought here, and I am going to just ask you about some of them, and we'll actually pull the items out.
(Discussion off the Record.)
MS. CHABER: Q. Leslie, I have a bag here that's marked "Marlboro Adventure Tomorrow." Was this something that you and your husband sent away for?
A. Yes.
Q. And that's number 68 on item -- Exhibit 6.
I am going to just pass you some things and ask you what they are and where you got them from. You can identify the number.
A. 71. And it's a Marlboro flashlight.
Q. And does it have the name "Marlboro" on it anywhere?
A. Yes. It says "Marlboro Unlimited" on the end.

00100

Q. And I think you had mentioned that you thought that you had a Camel cap somewhere. I am handing you item 80 from the exhibit.
A. Yes. That's Camel. Looks like Leonard's worn it quite a bit, too.
Q. Okay. And again, just so I don't ask you for every single one of them, are all the items that are present here in the room items that you or your husband received from either the makers of Camel cigarettes or the makers of Marlboro?
A. Yes.
Q. I am handing you item 9. Can you tell me what that is?
A. It's a deck of Camel hard pack cards.
Q. And when you say "hard pack," what are you referring to?
A. The characters on the front.
Q. Okay. Can you pull one of those out and hold it up to the camera?

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A. I got these out of my kids' toy box.
Q. Okay. When you came to come up --
A. That's why it's not a full deck.
Q. These are regular playing cards?
A. They are Camel playing cards, yes.
Q. And do you see any kind of warning or indication

00101

on the deck of cards where it says "Camel" that cigarette smoking is hazardous or can cause problems?
A. No, I don't.
Q. Is there anything on the hat?
A. Old concrete.
No. "Made in China."
Q. Now, I am handing you item 87, and it looks like it consists of two items. Can you tell us what that top item is? Hold it up to the camera.
A. It is a -- It says, "Smokers win a trip to scenic San Francisco." And I received this in the mail 8/14/99.
Q. And can you hold up the side that you have facing to me? Is that addressed to you?
A. Yes.
Q. And you just received that last month?
A. Yes. 8/14/99.
Q. And hold up the other side. And what does it say, "Win a deluxe get-away to the city by the Bay"?
A. Uh-huh.
Q. I am handing you item 85 from Exhibit 6. Can you tell us what that is and --
A. Yes. It's -- It's Camel cash and how they came attached to the cigarettes, because these are still glued to the pack.
Q. Okay. Could you maybe take the rubber band off

00102

and hold one up?
A. And it's my 100s -- I smoked the 100s -- and also matches, from Camel. They all had different pictures.
Q. And then you have some loose cash there, as well?
A. Yes. Some of it. This is -- I guess this -- It's the same stuff.
MS. CHABER: Bob, I'd ask you just to pull -- keep the tabs together, because I am having Leslie take them apart, and --
MR. BROWN: Want me to do it here?
MS. CHABER: Yes. Just so we don't get confused on our numbering.
Q. Leslie, I am handing you item 86. Can you tell me what that is?
A. Yes. It's a -- a coupon from Von's --
Q. Von's is a supermarket?
A. Yes.
-- for Camels.
Q. And there's --
A. I received this 4/15/99.
Q. And when is it you were diagnosed with lung cancer?
A. In June of '98.
Q. I am handing you item 43.
A. That's my shirt.

00103

Q. Can you tell us what that is and hold it up to the camera?
A. Right. Yes. It's a Camel -- Camel t-shirt.
Q. And --

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A. With a biker on the back.
Q. And it says, "Born To Be Smooth"?
A. Yes.
Q. And did you actually wear that shirt, Leslie?
A. Yes. Yes, I did.
Q. And were you proud to wear a Camel shirt?
A. Yes, I was. I was a Camel smoker.
Q. Any warning or information on --
A. No.
Q. -- that t-shirt?
Item 57, what's that?
A. Marlboro hat.
Q. And is that something that you --
A. My husband wore.
Q. And 55?
A. Camel lighter. Obviously, one that was ordered.
Q. Okay. Can you hold that up?
And item 5?
A. It's a Camel t-shirt.
Q. Is it different than the other one?
A. It's short-sleeved.

00104

Q. Okay. It says "Camel Genuine Taste" in the front. What does the back say?
A. And "Genuine Camel."
Q. Is that Biker Joe again?
A. Yes.
Q. Is that one of yours?
A. My husband's.
Q. And did you actually ride around on your motorcycle wearing those shirts?
A. Most likely. There's --
Q. I think you might have mentioned this earlier. Is this 51?
A. Yes.
Q. What's that?
A. It's the -- the Camel busting through the brick wall.
These were my husband's, the white ones.
Q. Okay. Can you just give us an idea what some of the other types of paraphernalia you got with either "Camel" or "Marlboro" on them?
A. Mostly t-shirts, because he, you know, wore them at work. And coffee cups. Mugs. Any -- Ashtrays. We did have plenty of ashtrays. Anything that -- Clothing, and the -- the -- we -- any -- any tools that -- You know, stuff that appealed.

00105

MS. CHABER: Bob, behind you, there's some items. Would you bring over just the remainder and the other one?
Q. What's item 30?
A. It's a -- a camp seat.
MS. CHABER: And, Bob, maybe you can hold that up to the -- there you go.
THE WITNESS: It opens up so you can sit on it when you go wherever. And it's got a pouch where you can keep your cold sodas or stuff.
MS. CHABER: Q. Okay. And 67, what's that?
A. I believe -- It's tools for the car. It's like an emergency road kit thingie that you keep in the car.
Q. Okay. And it's got the name "Adventure Team" and "Marlboro"?
A. Yes.

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Q. What -- What did you understand the adventure team to be?
A. This was -- Mostly they had pictures of sporting stuff. And it was -- I took it as this was mostly guy stuff.
Q. And I'm surprised they let us in the building with this. Is there a number on this?
A. I believe this is a fishing pole.
Q. Sixty-four.
A. If -- If I am -- I don't want a bug to jump out.

00106

Yes, it's a fishing pole.
Q. Okay. And does it have any cigarette brand name on it?
A. On the pole itself, or --
Q. Well, first of all, on the case.
A. Yes, on the case. I don't believe so on the -- on the pole.
Q. Okay.
MS. CHABER: Maybe we can take a minute and clear this stuff away from --
THE WITNESS: It smells like the garage.
MS. CHABER: I just want to move it away from in front of her. We're not done yet. Thanks.
THE WITNESS: I just can't reach across the table.
MR. BROWN: Sorry.
THE WITNESS: That's all right.
MS. CHABER: Q. Now, did you ever get pajamas that had the name --
A. Yeah, I did.
Q. -- "Camel" on it?
A. It was like a nightshirt.
Q. And would you wear those things around the house?
A. Uh-huh.
Q. And would you wear them around your children?
A. Yes.

00107

Q. Wear them out to the supermarket? Not the pajamas, necessarily, but maybe a t-shirt?
A. I have before. Yes.
Oh, Yes. We -- We wore -- wore them just as if we wore any other clothes.
Q. Was there a reason that you wanted to wear something that had a name of a company on it?
A. They were easy to get, with the Camel cash.
Q. Did you know who made Camel cigarettes, the name of the company that made them?
A. I haven't thought about it.
Q. Did you have any belief as to whether or not the manufacturer of Camel cigarettes would sell them if they were hazardous?
MR. BARRON: Vague as to time.
MR. SCARVIE: Lack of foundation.
MR. BARRON: Also leading and suggestive.
JUSTICE DOSSE: Sustained --
MR. SCARVIE: Calls for a conclusion.
JUSTICE DOSSE: -- on the first ground.
MS. CHABER: Q. At the time that you were smoking Camel cigarettes --
A. Yes.
Q. -- when did you first understand that smoking cigarettes could cause you serious disease?

00108

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A. The day I was diagnosed with cancer.
Q. Before that time period, did you have any belief as to whether or not the manufacturer of the cigarettes you were smoking would sell them if they knew that they caused serious injury or death?
MR. SCARVIE: Objection. Calls for speculation, lack of foundation, calls for an expert opinion.
JUSTICE DOSSE: Overruled.
You can answer the question.
THE WITNESS: I did not believe that they would sell me something that would kill me.
MS. CHABER: Q. Do you know who made Marlboro cigarettes?
A. Philip Morris.
Q. Did you have any belief about whether or not Philip Morris would sell cigarettes if they knew that they caused --
A. No.
Q. -- cancer or death?
MR. BARRON: Objection. Vague as to time.
JUSTICE DOSSE: At the same time? This is before?
MS. CHABER: Same time.
JUSTICE DOSSE: Objection is overruled.
THE WITNESS: The question was, did I --
MS. CHABER: Q. Did you think that Philip

00109

Morris -- Did you have any belief that Philip Morris would sell cigarettes if they knew that cigarettes could cause serious injury or death?
A. No.
Q. Now, earlier you talked about getting sick in February of 1998 that led to your stopping smoking.
A. Yes.
Q. Tell us what happened at that point.
(Shawn Magnussen, Attorney at Law, of Imai, Tadlock & Keeney is now present in place of Joan Marquardt.)
A. I had had a bad cold, and it continued to get worse until I finally -- it -- my lungs hurt so bad I went to the doctor, and he told me I had chronic bronchitis, and that if I did not quit smoking, it would just get worse and I would keep getting chronic bronchitis, and that's why I quit.
Q. Now, were you hospitalized at that time?
A. No.
Q. Did he give you any treatment?
A. He put me on antibiotics and cough syrup.
Q. Okay. And did you try to smoke when you got home after --
A. As soon as I left the doctor's office, I lit a cigarette up.

00110

Q. And what happened?
A. I couldn't breath. I -- It hurt, and I could only take a few puffs. Then I put it out, because I -- I had, at that time, gone across the street to the pharmacy to get my antibiotics.
Q. Okay. And then how long did it take you to get over this chronic bronchitis from that February incident?
A. It was, I think, two weeks.
Q. Okay. And at the end of two weeks, were you smoking?
A. No.

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Q. And how difficult or easy was it to -- to stay not smoking once you had recovered?
A. It was very difficult.
Q. What would happen?
A. I -- I -- Uncontrollable cravings. You know, the -- get dizzy, and -- and agitated, and very, very difficult to concentrate, and -- and deal with the kids, and -- and -- and it was very hard.
Q. Has it gotten easier?
A. Yes. But I still have the triggers. I still want to smoke. Every time I smell a cigarette. Maybe if I'm doing something, like getting a cup of coffee in the morning, I think, "Oh, a cigarette sounds good." My body tells me, but my mind says "No." It's still there.

00111

Q. Now, after you got over the bronchitis in February, did you continue to feel ill?
A. I felt fine for -- until -- I felt fine for a couple weeks or so.
Q. And -- And then what happened next?
A. I started getting symptoms of blurry vision, and I couldn't swallow, and my skin would itch.
Q. Go ahead.
A. And the doctor told me it was stress from not smoking -- from quitting smoking. That's what he told me, that the skin and the not being able to swallow was, and he said it was stress.
Q. And did he prescribe anything or tell you a way to relieve it?
A. Just don't -- You know, he said just keep going doing what you are doing, and -- and it would eventually go away.
Q. Okay. And did it?
A. No.
Q. What happened?
A. I started getting muscle weakness in my legs.
Q. And how long did that go on?
A. It -- It continued until I was taken into the hospital.
Q. And when was that?

00112

A. June 22nd, I believe.
Q. And -- And what happened on June 22nd, that you went to the hospital?
A. The doctor had looked at the x-ray they had taken the day before and saw that I had a mass in my lung.
Q. Okay. And what did they do from that point?
A. First, they had to stabilize me, because I was throwing up blood, and it was quite scary. But they did a bronchoscope on me, and that's how they biopsied.
Q. Now, they took a biopsy. They had taken x-rays. What doctor were you dealing with at that time?
A. A neurologist, Dr. Leonard.
Q. Okay. And did Dr. Leonard tell you what was going on?
A. He didn't know.
Q. Did he tell you some of the things he thought might be going on?
A. He -- He -- He thought I had a muscle problem called myasthenia gravis. And the day I went in for him to do that test, I told him I was coughing up blood, and so he ordered the chest x-ray along with the myasthenia gravis blood test.

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Q. Okay. And what did the blood test prove?
A. Nothing.
Q. Okay.

00113

A. The chest x-ray was -- showed what the real problem was.
Q. Okay. And so did you continue to see -- what was -- Dr. Leonard?
A. Dr. Leonard. No.
Q. I am getting confused between your husband Leonard and your doctor.
A. Yes.
Q. Did you continue to see Dr. Leonard?
A. No.
Q. Okay. Who --
A. That's -- They had Thomas Brugman, who is a -- a lung --
Q. Specialist?
A. Right.
Q. And what did he do for you?
A. He did the biopsy.
Q. Okay. And what did he tell you after that?
A. The first thing he told me was that he assumed at first it was small-cell, without seeing the biopsy results. And then when he did get the results, he told me that I had small-cell lung cancer, and that it was, he told me, most likely from my smoking.
Q. Okay. Now, what -- did he give you any information about what the likely course of the disease

00114

would be, or --
A. He told me it was found exclusively, almost, in smokers.
Q. Did he tell you what kind of treatment, if any, there was?
A. He told me that I had a very hard road ahead of me and I could very possibly die.
Q. What type of treatment did you end up getting?
A. I received six rounds of chemo, VP-16 and carboplatin, along with, I believe it was 28 treatments to my lung of -- of radiation, at the same time.
Q. Okay. And how did -- how did they do the chemotherapy? Was this a pill, or injection, or what?
A. I -- They injected it, and it took three days, and I got -- I received it every four weeks, I believe. Four to six weeks.
Q. Three days at a time --
A. Yes.
Q. -- every four to six weeks?
A. Yes.
Q. And then how would the radiation work?
A. That was every day, except Saturdays and Sundays and Jewish holidays.
Q. While you were doing the chemotherapy and the radiation, did you experience any side effects?

00115

A. Yes.
Q. Can you tell us about those?
A. Throwing up. I prayed for death, and then said I was just kidding afterwards, but I had holes burned in my throat from yeast growing in my throat, holes burned in me from the radiation itself. Throwing up felt like I was throwing up gasoline.

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My children watched all this.
Q. Was Leonard able to take time --
Do you want to take a break, Leslie?
A. (Nods head.)
MS. CHABER: Yeah. Okay. Let's take a break.
VIDEO OPERATOR: Going off the record. The time is 2:41.
(Recess taken from 2:41 to 2:53.)
VIDEO OPERATOR: Okay. We are back on the record. The time is 2:53.
MS. CHABER: Q. Before we took a break, I was asking you about side effects. I know this is very hard for you, so just do the best --
A. Okay.
Q. -- you can.
Did you have any pain while you were going through --
A. Yes.

00116

Q. -- the therapy?
A. Yes.
Q. Where was the pain?
A. In my lung.
Q. And did the therapy make you feel tired?
A. Extremely exhausted.
Q. How did you cope with the children during this time period?
A. They took care of me.
Q. Now, Carl just turned three, right?
A. Yes.
Q. And he doesn't go off to school, right?
A. No.
Q. So during this time period, how was Carl dealing with things?
A. It was very difficult, because -- Well, I had -- My mother would come help occasionally, but the older kids watched him.
Q. And what did you do about the housework that you normally did?
A. Leonard came home and did it at night.
Q. So he would go off during the day and go to work?
A. Oh, he had to work.
Q. Did you notice -- During the time period that you were going through the chemotherapy and radiation, did you

00117

notice any changes to the children?
A. Yes.
Q. In what ways?
MR. BARRON: This is not really a discovery objection, but just to make sure that the record is clear, I should probably object on the basis of relevance.
JUSTICE DOSSE: Overruled.
THE WITNESS: They were afraid for me to go anywhere.
MS. CHABER: Q. So how -- how would that effect you? What would happen?
A. Well, I -- I actually stayed on the couch most of the time, because I couldn't walk very well. I didn't have the strength. And so they ended up more or less taking care of me.
Q. And did you notice any changes in your relationship with Leonard?
A. Only that we got closer.

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Q. Did Leonard have to pick up some of the responsibilities that you had had before you had gotten sick?
A. Definitely. He had almost two full-time jobs then.
Q. Now, the chemotherapy and radiation lasted for a period of time, and then you were able to stop?

00118

A. Right.
Q. Were you given any information about whether or not the treatment had worked?
A. Yes.
Q. And what were you told?
A. I was told that -- that they believed that they got all the tumor, and that it was just scar tissue, and that that was that.
Q. Did you think at that point that you were out of the woods?
A. Yes, I -- I had great hopes.
Q. And did that continue, that you had great hopes?
A. I still have great hopes, but I ended up with the cancer spread to my brain.
Q. And when did you find out about that?
A. I believe it was January, this last January. I'm not sure, the exact date.
Q. Okay. And as a result of the cancer spreading to your brain, have you had additional treatment?
A. Yes.
Q. And what have -- kind of treatment have you had?
A. Cranial irradiation to my brain.
Q. And --
A. Full-brain radiation.
Q. And how -- how did that work? Describe the --

00119

A. I had.
Q. Describe the routine.
A. Every day, five days a week, for I believe it was four weeks and three days, which is longer than most people get.
Q. And you said it was your whole head?
A. Yes.
Q. And that -- Did that cause any side effects?
A. Yes, it did. It felt like I had a critter burrowing through my head. It was very, very painful, and they put me on Decadron, which I am on now -- and it is not.
Q. Why do you say it's not a pleasant drug to be on? What does it do?
A. It swells you up, causes mood swings. Keeps me awake at night; I cannot get sleep. Makes you eat. It -- It makes you feel like you are -- always had too much coffee to drink. You can't relax. It's -- And you need sleep right now, to counteract treatment.
Q. So you need sleep, but you are unable to?
A. Right.
Q. About how many hours of sleep do you get in a day?
A. It's -- It's interrupted throughout the night. It's unpredictable.
Q. Did you ever get to a point where you just decided

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to stay home and do nothing?
A. I spent three weeks on the couch.
Q. And what happened after that?

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A. That was after my -- my brain radiation, because I had no energy. Every day, I was laying down.
Q. And what were the children doing during this time?
A. They were in school.
Q. And who was taking care of Carl during the day?
A. Me.
Q. Since that radiation, have they determined whether or not the full-brain radiation had any effects?
A. They found another tumor in the back of my brain since then.
Q. And is that going to require treatment?
A. Yes.
Q. And what's the treatment that is going to be done?
A. Radiostatic radiation. Radio -- Now I can't think of what -- exactly what it's called. Radio --
Q. Surgery.
A. There you go. Thank you.
Q. And what do you -- What's your understanding of what the procedure is going to be like?
A. I haven't been told the details yet.
Q. Have you had to do preparatory things to get ready for it?

00121

A. Yes.
Q. What -- What has happened?
A. Last week, I believe, I had my screw placements put in. I have a -- That's why I have these lovely things on my head. And they are for triangulation of the beam of the radiation so they can zero in on the tumor itself.
Q. Okay.
A. And I had a simulation last week.
Q. And what was the simulation like?
A. Sheer torture, because the mask bit into my bone, and it felt like a bamboo shoot was growing into my brain, and I had to lay there for an hour while they simulated doing the procedure. And that was awful. I whimpered and cried, because I couldn't move. I was locked into a mask.
Q. To keep your head from moving?
A. Right.
Q. These -- What did you --
A. Screws.
Q. -- screws --
A. They put them in with a drill.
Q. They actually used a drill?
A. Yes.
Q. And were you awake during this time period?
A. I woke up when they were doing one. I was supposed to be awake, but they gave me an "I don't care"

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shot and I went to sleep. I was so exhausted that I slept through the procedure.
Q. You did wake up during one of them?
A. Oh, yeah. It hurt.
Q. And when is the procedure -- You've had the simulation done. When is the procedure supposed to take place?
A. I am told this next Tuesday.
Q. And is it a one-time event?
A. I'm not sure. I am not sure about that at all.
Q. Do the screws come out when you are -- when you are done?
A. No. They are in for life. I may need them again.
Q. Before you became ill, what things did you and

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Leonard like to do together?
A. We did a lot of camping and motorcycling.
I worked in my dad's orchard. That's my pride and joy, which, you know, that -- We did a lot of outdoor stuff.
Q. Are you still able to work in the orchard?
A. Not like I -- No. No, not -- I just take care of around my house. And I -- The kids have to help me.
Q. Okay. And --
A. They help me mow.
Q. Have you gotten involved at all since your

00123

diagnosis with any cancer groups or any activities related to your cancer?
A. Yes, I have.
Q. What have you gotten involved with?
A. A group called "L Case" which is for lung cancer survivors and their families.
Q. And what do you do with them?
A. With them, it's -- I get a newsletter from them, and if I need anything, I can always e-mail them. They'll help me out if I have any questions. They are great resources, and they are trying to -- what they are trying to do is -- is get tests done on people for lung cancer, to -- I can't think of the word.
Q. Like a screening?
A. Yeah. Screen for lung cancer, is what they are fighting to -- to have done. Because people like me, you know, the doctors didn't know what was wrong with me.
Q. And any -- any other groups that you've worked with?
A. American Cancer Society.
Q. And what have you done with them?
A. I volunteered for their booth at the Celebration for Life -- for cancer survivors.
I also helped them at Relay for Life.
Q. And what's that?

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A. That is a -- for people who have either died or are survivors of cancer, and they raise money, go around -- It's a 24-hour thing where teams go around a track, and they get people to -- to --
Q. Sponsor?
A. Yeah, sponsor them and donate money. And they have candelarias we light up with people who have either survived or died. It's a pretty neat thing.
Q. And have you done any speaking or talking to groups about cancer or your experiences?
A. Yes. At Nordhoff High School.
Q. And tell us about that.
A. One day when I was coming out of the bank, I seen a group of about 15 kids smoking. And I thought, "These idiots. This is how I started." And so I contacted the school and asked them if I could be of service to them, and they happened to have a no smoking group at the school and had me come and talk to them.
Q. And what did you talk about?
A. My experience.
Q. Did you talk to them about smoking as a teenager?
A. Yes, I did.
Q. What kinds of things did you tell them about that?
A. Just that I knew that they knew they couldn't stop, they are hooked. And I told them, "It's hard, but

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you got to do it. Work. Don't give up." I encouraged, but let them know it could be done if they tried hard enough.
Q. And is that something that you plan to do again, speak before --
A. Yes.
Q. -- groups?
A. Yes.
Q. Leslie, do you spend any time thinking about dying?
A. Yes.
Q. And what are your thoughts?
A. It scares me. When they asked me if I was allergic to anything in the hospital, I said, "Yes, death." So I aim on beating this.
Q. Okay. And is that your plan for the future?
A. Yes.
Q. Before you were diagnosed, what kinds of plans did you have for your and your family's future?
A. Growing old with my husband and watching grandbabies.
Q. And what are your plans now?
A. The same.
MS. CHABER: Okay. I have nothing further.
VIDEO OPERATOR: This is the end of tape 2 of volume 1 of the deposition of Leslie Whiteley. Going off the record. The time is 3:09.
(Whereupon the deposition was adjourned at 3:09 p.m.)

_____ _____
DATE LESLIE WHITELEY

00128
IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA
IN AND FOR THE COUNTY OF SAN FRANCISCO
---oOo---

LESLIE WHITELEY AND LEONARD WHITELEY,
Plaintiffs,
vs. NO. 303184
RAYBESTOS-MANHATTAN, et al.,
Defendants.
_____/
Volume 2 Pages 128 to 288

VIDEOTAPED DEPOSITION OF
LESLIE WHITELEY
==========
WEDNESDAY, SEPTEMBER 15, 1999

REPORTED BY: MARJORIE FORMAN, CSR #2783
Tooker & Antz
Court Reporting & Video Services
818 Mission Street, Fifth Floor
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BE IT REMEMBERED that on Wednesday, September 15, 1999, at the hour of 10:11 a.m., at the Law Offices of Wartnick, Chaber, Harowitz, Smith & Tigerman, 101 California Street, Suite 2200, San Francisco, California 94111, before me, Marjorie Forman, duly authorized to administer oaths pursuant to Section 2093(b) of the California Code of Civil Procedure, personally appeared?

LESLIE WHITELEY,

Called as a witness by the Plaintiffs, and the Witness, having been duly previously sworn, was examined and testified is as hereinafter set forth:

A P P E A R A N C E S

For the Plaintiffs:
Law Offices of Wartnick, Chaber, Harowitz, Smith & Tigerman
101 California Street, Suite 2200
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BY: MADELYN CHABER and ROBERT BROWN, Attorneys at Law

For the Defendants: Golden Gate Drywall, Inc.; D. W. Nicholson Corporation.
Burnham & Brown, 1901 Harrison Street
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Oakland, California 94604
BY: PETER LAGASSE, Attorney at Law

For the Defendant: Metalclad Insulation Corporation
Misciagna & Colombatto
7 Maiden Lane, 4th Floor
San Francisco, California 94108
BY: GREGORY ROSSE, Attorney at Law

For the Defendant: Amcord (Riverside Cement.)
Adams Nye Sinunu Walker
One Jackson Place

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633 Battery Street, Fifth Floor
San Francisco, California 94111
BY: HOLLY A. GRUBS, Attorney at Law

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For the Defendant: CCR Defendants named, served & Remaining in the Action.
Haight, Brown & Bonesteel
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BY: HELENE E. SWANSON, Attorney at Law

For the Defendant: Riley Stoker Corporation
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1211 Newell Avenue, Suite 202
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For the Defendant: Westburne Supply.
Steefel, Levitt & Weiss
30th Floor, One Embarcadero Center
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BY: JOJIRO TAKANO, Attorney at Law
For the Defendant: Rapid American Corporation
Thelen Reid & Priest LLP
Two Embarcadero Center
San Francisco, California 94111-3995
BY: Paul V. Lankford, Attorney at Law
For the Defendants: Dresser Industries Incorporated; Slakey Brothers
Bennett, Samuelsen, Reynolds & Allard
Suite 200, 1951 Webster Street
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BY: JOHN COWPERTHWAITE, Attorney at Law

For the Defendant: Thorpe Insulation Company,
Fox, Shjeflo, Wohl & Newkold
Sixth Floor, Home Savings Building
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BY: SEAN P. RILEY, Attorney at Law
For the Defendant: Grinnell
Ropers, Majeski, Kohn & Bentley
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BY: MATHEW COLE, Attorney at Law
For the Defendant: Rich-Tex, Incorporated
Imai, Tadlock & Keeney
180 Montgomery Street, Suite 1000
San Francisco, California 94104

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BY: JOAN E. MARQUARDT, Attorney at Law
For the Defendants: Plant Insulation Company: Kaiser Cement Corporation; Kaiser Gypsum Company.
Jackson & Wallace
580 California Street, 15th Floor
San Francisco, California 94104
BY: JAGJIT KAUR, Attorney at Law

For the Defendants: Atlas Heating & Ventilating; Groniger.
Low, Ball & Lynch
601 California Street
San Francisco, California 94133

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BY: MICHAEL E. SANDGREN, Attorney at Law
For the Defendants: Sugden Engineering; Martin Madsen; SB Decking.
Walsworth, Franklin, Bevins & McCall
550 Montgomery Street, 8th Floor
San Francisco, California 94111
BY: INGRID CAMPAGNE and MICHELLE CASTRO, Attorneys at Law

For the Defendant: R. J. Reynolds Tobacco Company
Law Offices of Howard Rice Nemerovski Canady Falk & Rabkin
Three Embarcadero Center, Seventh Floor
San Francisco, California 94111
BY: THOMAS G. SCARVIE, Attorney at Law

For the Defendants: Bigelow-Liptak; A.P. Green; Harbison-Walker; W.A. Call; J.T. Thorpe, Inc.; Syd Carpenter Marine:
Law Offices of Prindle, Decker & Amaro
369 Pine Street, Suite 800
San Francisco, California 94104
BY: JAMES PRICHASON, Attorney at Law

For the Defendant: Pierce Enterprises Company, dba Pierce Enterprises.
Law Offices of Davidovitz & Bennett
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San Francisco, California 94111
BY: JAMES PRICHASON, Attorney at Law
For the Defendant: Philip Morris.
Shook, Hardy & Bacon LLP
One Market Street
Steuart Tower, Ninth Floor
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BY: GERALD V. BARRON, Attorney at Law and MORDECAI D.

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BOONE, Attorney at Law
Also Present:
JUSTICE ROBERT L. DOSSEE, Two Embarcadero Center, Suite 1100, San Francisco, California 94111

Tooker & Antz, Certified Court Reporters and Video Services
818 Mission Street, Fifth Floor
San Francisco, California
represented by DANIEL DeFRANK, VIDEOGRAPHER

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VIDEO OPERATOR: Ladies and gentlemen, we are on video record on September 15th, 1999. The time is 10:11.
I am Dan DeFrank, a Certified Notary Public for the County of San Francisco, representing Tooker & Antz, 818 Mission Street, Fifth Floor, San Francisco, California 94103, 415-39-2050.
This is the beginning of tape 1 of volume 2 in the case of Leslie Whiteley versus Raybestos-Manhattan, et al., in the deposition for Leslie Whiteley.
All aspects as indicated on tape 1, volume 1 remain the same.
Counsel, you may proceed.
MR. PRICHASON: Good morning. Formally and officially, I do not know if Berry & Berry has filed a Notice requesting defendant's deposition, but on the premise that they have and that this is defendants' exam, this is essentially a second and separate transcript, so I'd like to formally reswear the witness for the purpose of this transcript.
MS. CHABER: I absolutely don't agree, Counsel. We noticed the deposition, and as far as I'm aware there's only one deposition that takes place of the party, absent some Court Order requiring a second deposition. I think this is part of the same record.
MR. PRICHASON: I'm not going to get into a
00135
dispute with it. I am just going on custom and history of this particular litigation, we've had second transcripts.
I'm also saying I do not know if Berry & Berry has issued a Notice of Taking Deposition, because I haven't seen one. If they have not, then I certainly have no grounds at all. I am not going to fight with you on that, but I am making the point as we stand.
EXAMINATION BY MR. PRICHASON
MR. PRICHASON: Q. Ms. Cummings (sic), good morning. My name is Jim Prichason. I represent a number of defendants today. I am going to run through the list just so I can recall them all.
We'll start with J. T. Thorpe & Sons, A. P. Green Industries, Bigelow-Liptak, Harbison-Walker, W. A. Call Company, Syd Carpenter Marine Contractors, Pierce Lathing Company doing business as Pierce Enterprises.
Just as -- I ran through that quickly, but do you recognize any of the names I just said off to you?
A. No.
Q. Have you ever heard any of those names in any way, that you can recall?
A. No.
Q. Okay. Thank you much.
I am going to be very brief. I am just going to give you a quick back ground on how we are going to
00136
proceed, I think, and then ask a few questions related to my clients, and then I will pass the questioning on to other attorneys who are representing other asbestos-related defendants.
You basically have gone through a deposition transcript, and with your attorney asking questions, and I think you understand the rules of how we proceed. I just want to remind you of two things.
If you have any doubt as to what my question meant, please say so. You are absolutely entitled to clear

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and straightforward questions. If you have any doubt in your mind, tell me, I'll be happy to rephrase it or repeat it until you are comfortable. Do you understand that?
A. Yes.
Q. I just want to emphasize, it's kind of important, because if you do answer we are entitled to assume that you understood the question and the answer you gave is one you intended to give.
Secondly, if you need to take a break for any reason, I don't care what it is for, please just say so.
The only time we would hesitate is when we are in the middle of a question, other than that, just let us know, I'll try to be aware of when you might need a break, I know your attorney will be, but you've got to help us with that. Okay?

00137

A. Okay.
Q. Let's just walk through this very simply.
My understanding is that your father was more or less in the construction business when you were growing up --
A. Yes.
Q. -- is that a fair description?
A. Yes.
Q. What was -- when you grew up, did you spend your entire childhood in the Ventura, California area?
A. Yes, I did.
Q. Did you spend your entire childhood in just one location? I am talking up to the time you left high school.
A. No.
Q. Just quickly, how many locations?
A. Two.
Q. They were both in the Ventura area, though?
A. Ventura County.
Q. Right. At the time you became aware of what your father did for a living -- I don't care how old you were -- what was it you were aware that he did, just as a general idea?
A. A pipefitter.
Q. Do you know who he was working for at the time you

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became aware that he was quote, a pipefitter?
A. No.
Q. During the time you were living with your family up to the age of approximately 16, were you ever aware of any of the jobsites your father worked at?
A. Steam plants.
Q. Can you identify any of those steam plants specifically?
A. Just Oxnard.
Q. When you say the word "Oxnard," what are you referring to?
A. The town -- the area.
Q. Okay. Was there, in your memory, a steam plant being built in the Oxnard area?
A. I -- I just remember that he had worked in Oxnard.
Q. Okay. I am just asking general questions.
Using that particular general memory, up to the time you left high school, can you identify any specific job your father did at any jobsite?
A. Specific as --
Q. I'll rephrase it.

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Other than saying he worked in the Oxnard area, can you identify a particular plant, for example, he worked at?
A. Mandalay.

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Q. Okay. Do you know when it was he worked at Mandalay?
A. No.
Q. Do you know for how long he worked at Mandalay?
A. No.
Q. Do you know what his particular job assignment was at Mandalay?
A. Only that he was a pipefitter.
Q. Okay. Do you know whether he was a lead man, a foreman, a superintendent or journeyman pipefitter at that jobsite?
A. No.
Q. All right. Did your father, during the time -- up to the time you left high school, did your father ever bring home any souvenirs from any jobsite? I am using the word "souvenirs" in a very broad sense.
A. Souvenirs, not that I know of.
Q. Okay. Let me --
A. No.
Q. -- make sure that we are clear. Do you remember your father coming home with, I think you said yesterday, his lunch pale?
A. That's not a souvenir.
Q. Right. But using as an example for a moment, you remember him coming home with a specific item, correct?

00140

A. Yes.
Q. Did he wear a hard hat?
A. Yes.
Q. Did he come home with a hard hat?
A. It was probably in the car.
Q. Okay. Using -- sometimes people on different jobsites will -- I had one guy collected 13 hard hats because they were different colors. I am looking for things like that.
A. No.
Q. Okay.
A. No.
Q. Okay. Did you, while you were living with your family up to the time you left high school, ever visit a jobsite your father was working at?
A. No.
Q. Did you ever visit a jobsite your father had worked at?
A. No.
Q. You left high school -- graduated from high school, became married, and then I believe moved to Newport News, Virginia --
A. Yes.
Q. -- is that correct?
At some point with your husband, Mr. Moore, you

00141

came back to California to the San Diego area, correct?
A. Yes.
Q. All right. Focusing only on that time when you were in the San Diego area, did you yourself ever live on the Naval base in San Diego?
A. No.

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Q. Did you yourself ever visit any portion of the Navy base when any of that base was under construction, remodel or rip-out or demolition?
A. I don't know.
Q. Do you recall seeing any construction or demolition of any facility at the San Diego Naval base?
A. No.
Q. All right. Did you ever visit your husband when he was working on board a ship?
A. What do you mean, "working"?
Q. Did he have a duty assignment on board a vessel while you were at San Diego?
A. Yes.
Q. Did you ever visit him during the time he was actually fulfilling a duty assignment on board that vessel?
A. I have been on a ship.
Q. Okay. Was that when the ship was an open house type of situation or what?
A. I -- no.

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Q. Just give me a description of how --
A. I went to visit him while he was on duty.
Q. Okay. During what time period, if you can recall, did you do these visits? What years, basically, is what I'm looking for.
A. I'm not sure what year it was.
Q. If you are not sure, it's okay.
Do you know what -- was this the USS PIGEON?
A. Yes.
Q. Was that the only vessel that he had a duty assignment on during the time you were at San Diego?
A. That I'm aware of, yes.
Q. That's all we are worried about.
Did he ever tell you that the vessel was undergoing overhaul at any time?
A. I -- I don't remember that.
Q. Did you ever see, on any of your visits to him, the vessel or any portion of the vessel undergoing repairs or overhaul or maintenance, that you can recall?
A. No.
Q. Did your -- what was your husband's title at the time you were stationed in the San Diego area?
A. In San Diego, I believe he was a hull technician.
Q. Do you know what rank or rating he had?
A. ET.

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Q. Did -- did he wear fatigues when he was assigned to the boat?
A. Blues.
Q. Did you wash those blues?
A. Yes.
Q. Whenever he came back from the boat, did you notice any particular debris or dirt, other than what would be described as maybe normal dirt on those fatigues?
A. No.
Q. All right. Do you have any information or knowledge as to what slip, dock, pier or wharf the PIGEON was based at?
A. No.
Q. Did you ever see any trucks or vehicles near the PIGEON that you believed to be owned or operated by civilian workers?
A. Not that I remember.

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Q. Did you ever see any nonnaval or nonfederal workers that you knew in or on the PIGEON when you visited it?
A. No, not that I know of.
Q. At any time when you -- including the time you were in high school and up to the time you were in San Diego with Mr. Moore, did you ever see any spray-on material being applied to any surface?

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A. Spray-on?
Q. Yes, sir -- yes, ma'am.
A. Not that I remember.
Q. At any time when you were in high school and when you were in that San Diego period, did you ever see material that you thought was spray-on material being removed from anything?
A. No.
MR. PRICHASON: That's it. Thank you much. Why don't we go off for a second.
VIDEO OPERATOR: Going off the record. The time is 10:22.
(Discussion off the Record.)
VIDEO OPERATOR: We are back on the record. The time is 10:23.
EXAMINATION BY MR. ROSSE
MR. ROSSE: Q. Good morning, Mrs. Whiteley.
A. Good morning.
Q. My name is Greg Rosse and I represent a company called Metalclad Insulation Corporation. Have you ever heard of that company?
A. No.
Q. Did your father ever talk about his employers during the time he worked during the time you lived at home?

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A. Not to me.
Q. Do you know who he worked for?
A. No.
Q. Did he ever talk about any jobs when he was at home?
A. Not to me.
Q. Did you do the laundry for your father while you lived at home?
A. No.
Q. Did your mother do his laundry?
A. Yes.
Q. Did your mother do his laundry?
A. Yes.
MR. ROSSE: That's all the questions I have.
EXAMINATION BY MR. SANDGREN
MR. SANDGREN: Q. Good morning, Ms. Whiteley.
A. Good morning.
Q. How are you doing?
A. Fine.
Q. I think I'm also going to have just a few questions.
My name is Mike Sandgren and I'm with the law firm of Low, Ball & Lynch. Sort of a curious name. Have you ever heard of that law firm?
A. No.

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Q. Okay. I represent two defendants in this action, Atlas Heating & Ventilating Company, Incorporated. Have

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you ever heard of that company?
A. No.
Q. I also represent Groniger & Company. Have you ever heard of that company?
A. No.
Q. I was here during your deposition yesterday, so I'm not going to repeat a lot of the testimony that you went through.
I would like you to let me know when you first began experiencing breathing problems.
A. Breathing problems?
Q. Respiratory difficulties. I know your medical records say they initially thought you had bronchitis. What I want you to tell me is just when you first began to experience breathing problems.
MS. CHABER: It's vague and ambiguous.
JUSTICE DOSSE: Overruled.
Do you understand the question?
THE WITNESS: Not quite, because --
JUSTICE DOSSE: Maybe you can rephrase it.
MR. SANDGREN: Okay.
Q. What are your current problems, other than difficulties from --

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A. You mean in this time period? What -- in a time period? Because I -- I mean, I've -- I've had a lot of bronchitis over the years, or colds, or whatever.
Q. Okay. Let me --
A. -- whatever they were that ...
Q. When was the first time that you related symptoms related to bronchitis?
A. I would -- that I medically know was when the doctor told me I had bronchitis.
Q. And when did that take place?
A. My first pregnancy in '88.
Q. Thank you. And which physician told you that you might have bronchitis back in 1988?
A. Dr. Richardson.
Q. What if anything did he recommend to you to deal with your bronchitis?
A. Just had me on antibiotics. It was a bad cold.
Q. Could you describe the symptoms that you were suffering through back in 1988?
A. Coughing, a fever, lots -- lots of coughing up of phlegm.
Q. Did the symptoms clear after your pregnancy, or did you continue to have these same sort of problems of coughing and fever and phlegm?
A. Every winter mainly, you know, I would get sick.

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Off and on.
Q. Prior to 1988, had you had any breathing problems, either without -- without having an ability to get enough oxygen, or anything of that nature?
A. Without having --
Q. Well, let me rephrase that.
Prior to 1988, did you have any other breathing problems?
A. I had pleurisy in high school, I believe it was in the tenth grade, and that was a couple weeks, and they just had me on some codeine for the pain.
Q. Do you recall what physician you saw for pleurisy in high school?

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A. Dr. Stayer, S-T-A-Y-E-R.
Q. Other than the pleurisy, did you have any other difficulties with breathing prior to the onset of bronchitis in 1988?
A. Not that I am aware of, no.
Q. Now, according to my notes -- and my notes could be wrong, I'm not the best note-taker -- in January 1999, Dr. Leonard reviewed several chest x-rays. Was that correct?
A. January of '99? I -- not that I know of.
Q. When was the first time that you remember Dr. Leonard reviewing your chest x-rays?

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A. That would be June of -- of '89.
Q. June of '89?
A. Of '98. Excuse me. It was the same day I went into the hospital. June 22nd, I believe.
Q. Perhaps you could take me through the events of that day.
What led to your going to the hospital?
A. I had woke up in the morning and I was -- I could not even swallow water. I was throwing up blood and coughing up blood. I was not able to get up and walk. I had to have my son call my mother to take care of me and my children.
Q. At some point you went to the hospital that day?
A. My husband came home from work and called the doctor, and he called in on the x-ray and told him to -- to take me straight to the hospital.
Q. And which hospital did you go to?
A. Community Memorial in Ventura, California.
Q. Once you were taken to the hospital, your chest x-rays were taken, is that correct?
A. No. They had taken the x-ray the day before.
Q. While you were in the hospital, is that the time when Dr. Leonard came in to discuss what he saw on the chest x-rays?
A. Yes. Well, it was actually on the phone. He had

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called for the report while he was on the phone with my husband.
Q. Did you speak with him on the phone?
A. No.
Q. Did you speak with Dr. Leonard at any point that day directly?
A. Yes.
Q. Okay. Was that a face-to-face conversation?
A. Yes.
Q. In the hospital?
A. Yes.
Q. What can you recall Dr. Leonard telling you that he had seen on your chest x-rays?
A. That there was a large mass.
Q. Did he tell you anything else as to what the mass was called or --
A. No.
Q. Did he tell you what he thought caused the mass?
A. No.
Q. At another time, at any point, has he told you what he believes caused the mass in your lungs?
A. He may have told me that it was smoking.
Q. Did he ever tell you that it was caused by exposure to asbestos?

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A. No.
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Q. Has any of your treating physicians -- and I am not talking about any of the physicians that you have seen as a result of a referral from your counsel -- but have any of your treating physicians told you that your cancer is related to asbestos exposure?
A. No.
Q. Do you believe that your cancer is caused or contributed to as a result of exposure to asbestos?
A. No.
MR. SANDGREN: Thank you. I have no further questions.
EXAMINATION BY MR. LAGASSE
MR. LAGASSE: Q. Good morning, ma'am.
A. Good morning.
Q. My name is Peter Lagasse. I represent two defendants in this case, D. W. Nicholson Corporation and Golden Gate Drywall.
Have you heard either of those names before today?
A. No.
Q. Okay. Do you have any knowledge or understanding of any contractors or companies that may have worked at any jobsites where your father worked at any time?
A. No.
MR. LAGASSE: Those are all the questions I have for now. I am going to reserve my right to ask further
00152
questions at a later time in the deposition. Thank you, ma'am.
EXAMINATION BY MS. SWANSON
MS. SWANSON: Q. Good morning. My name is Helene Swanson. I just have a few questions for you.
Do I need to say it again?
Once again, good morning. My name is Helene Swanson. I'll just have a few questions for you.
Do you have any information concerning the brand name, manufacturer or supplier of any products that your father worked with during the time that you lived in his household?
A. No.
Q. Do you have --
MS. CHABER: Counsel, could you identify who you represent? I don't think --
MS. SWANSON: Yes. I represent several defendants, the Center for Claims Resolution defendants named, served and remaining in this action.
Q. Do you have any information concerning the brand name, manufacturer or supplier of any of the products that your ex-husband, Dean Moore, worked with either at Newport News or when you were living on the Navy base in San Diego?
A. No.
Q. Have you ever personally worked with any products
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which you believe may have contained asbestos?
A. No.
Q. Have you ever worked for a shipyard?
A. No.
Q. Did you ever visit your ex-husband, Dean, on any ships when he was at Newport News?
A. Yes.
Q. Okay. And which ship or ships did you visit him on?

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A. USS SAGINAW.
Q. Is that the only ship?
A. Yes.
Q. Is that the only ship that you are aware that he worked on?
A. Yes.
Q. And why did you go visit him on the ship, what was the purpose of --
A. He was on duty.
Q. Okay. And would that have been once or more than once?
A. It was most likely more than once.
Q. Okay. Can you give me a specific number of the amount of times that you recall visiting him on board that ship?
A. Five.

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Q. And did you visit him while he was working?
A. No.
Q. And was this just visiting him on a break or during lunch?
A. In the evening.
Q. Okay. And where would you go visit him in the evening? Where, precisely?
A. In -- in the galley.
Q. Did you ever go anywhere on the USS SAGINAW to visit your ex-husband, other than in the galley?
A. Only on deck.
Q. Okay. And would that be the top deck of the ship?
A. I assume.
Q. Were you responsible for washing Dean Moore's clothing when you were together with him?
A. "Responsible"?
Q. In other words, did you --
A. Excuse me. Yes, I did his laundry.
Q. And do you know if he changed his work clothing before he came home or --
A. He changed at home sometimes.
Q. And when he changed at home, what kind of clothing did he wear to work that he was changing from? In other words --
A. He -- he had coveralls, and he also had his -- the

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dungarees issued by the Navy, which they have to wear.
Q. And did you have a regular washing machine that you washed --
A. No.
Q. -- his work clothing in?
A. No.
Q. Okay. How did you go about washing his clothing when you were together?
A. I hauled it all to the laundromat with all the other women.
Q. Okay. So you took it to a laundromat?
A. Right.
Q. Other than doctors that your attorneys may have referred you to, have you ever discussed the subject of exposure to asbestos with any physician that you've seen?
A. No.
MS. SWANSON: That's all the questions I have. Thank you.
THE WITNESS: You are welcome.
EXAMINATION BY MS. KROLL

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MS. KROLL: Q. Good morning, Mrs. White. My name is Amy Kroll, and I represent the Riley Stoker Corporation. Have you ever heard of that company before today?
A. No.
Q. Okay. I have some more questions. I apologize, I

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wasn't at your deposition yesterday, so if I cover some areas that have been covered already, I apologize.
While your ex-husband Dean Moore was working in San Diego, did he only work at one location?
A. I don't know.
Q. Okay. But as far as you are aware, he worked on the USS PIGEON, I believe you said?
A. Yes.
Q. Okay. But you are not aware if he went to other locations for the Navy?
A. Well, they did go out at sea. He's on a ship.
Q. Okay.
A. That's -- I -- you know, I don't -- I don't know the schedule.
Q. Okay. Did all of your ex-husband's work take place on ships or did he ever do work on land?
A. I don't know that.
MS. KROLL: Okay. That's all I have. Thank you.
VIDEO OPERATOR: Microphone.
MS. KROLL: Thanks.
EXAMINATION BY MS. DABNEY-SMITH
MS. DABNEY-SMITH: Q. Good morning, Mrs. Whiteley. My name is Candy Dabney-Smith. I represent two defendants in this action, Dresser Industries and Slakey Brothers. Have you ever heard of either one of

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those companies --
A. No.
Q. -- before this date? No?
Do you have any reason to believe that you were exposed to any products or worked around any products distributed by either one of these companies?
A. Pardon?
Q. Do you have any reason to believe that you have been exposed to or worked around any -- any of the products distributed by either Dresser Industries or Slakey Brothers?
A. I have no idea.
MS. DABNEY-SMITH: Okay. Thank you. Those are all the questions I have.
EXAMINATION BY MS. MARQUARDT
MS. MARQUARDT: Q. Good morning, my name is Joan Marquardt and I represent a company by the name of Rich-Tex, Inc. Prior to today, have you ever heard of that company?
A. No.
Q. Do you associate any type of product with the name Rich-Tex, Inc.?
A. No.
MS. MARQUARDT: Thank you very much.
EXAMINATION BY MR. COLE

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MR. COLE: Q. Good morning, Mrs. Whiteley. My name is Matt Cole and I represent Grinnell Corporation. Have you ever heard of Grinnell Corporation?
A. No.
Q. Do you know what product or service Grinnell

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Corporation is involved in?
A. No.
Q. Do you know if Grinnell Corporation caused you, either directly or indirectly, through its actions or inaction, to cause you to be exposed to asbestos?
MS. CHABER: Calls for speculation.
JUSTICE DOSSE: Can you rephrase the question? Sustained.
MR. COLE: Q. Do you know if Grinnell Corporation caused you to be exposed to asbestos?
A. No.
MR. COLE: Thank you.
EXAMINATION BY MR. TAKANO
MR. TAKANO: Q. Good morning, Mrs. Whiteley, my name is Joe Takano. I'm with the law firm of Steefel, Levitt & Weiss. We represent Westburne Supply, formerly doing business as P. E. O'Hair Company.
Have you ever heard of either P. E. O'Hair Company or Westburne Supply?
A. No.

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Q. Have you ever worked with, or do you have any reason -- do you have -- have you ever worked with any products supplied by Westburne Supply or P. E. O'Hair?
A. Not that I know of.
Q. Do you have any reason to believe that you have been exposed to any asbestos dust emanating from a product supplied by Westburne Supply or P. E. O'Hair?
A. I couldn't honestly answer that. I don't know.
Q. Do you have any reason to believe that your father worked with or was exposed to any asbestos dust emanating from a product manufactured by P. E. O'Hair or Westburne Supply?
A. I don't know that, either.
Q. And just one final question, to be thorough.
Do you have any reason to believe that -- your former husband, Dean Moore, do you have any reason to believe that he ever worked with or was exposed to any asbestos dust emanating from a product supplied by Westburne Supply or P. E. O'Hair?
A. I can't answer that because I don't know.
MR. TAKANO: Okay. Those are all my questions. Thank you very much.
EXAMINATION BY MR. LANKFORD
MR. LANKFORD: Q. Good morning.
A. Good morning.

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Q. My name is Paul Lankford, I represent a company called Rapid-American Corporation.
Have you ever heard of a company called Philip Carey Corporation?
A. No.
Q. What about Philip Carey Manufacturing?
A. No.
Q. Have you ever heard of a product called Carey Temp?
A. No.
Q. Do you have any reason to believe that your father worked with any products manufactured by a company by the name of Philip Carey?
A. I -- I can't answer that. I -- I don't know what he did in his job particularly.
Q. Okay. I'd like to ask you some questions about

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your father, and mainly focusing on his work clothes and -- and laundry issues within the home. You said that your father wore street clothes to work?

A. He wore work clothes.

Q. Okay. What do you mean when you say "work clothes"?

A. I -- I -- he would -- would go to work before I was awake in the morning, so I -- you know, I -- he wore his dungarees jeans, you know, to -- whatever he wore to

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work, his work clothes.

Q. And what time did your father generally return home from work? Was it -- let me back up a second.

Did your father keep a regular work schedule, in other words, he would always leave about the same time in the morning and come home about the same time in the afternoon or evening?

A. I suppose, yes.

Q. Do you have any recollection of -- of what his work schedule was when you were living in the household?

A. He -- he would come home in the evening before -- about dinner time.

Q. Okay. When he came home in the evening, would he be wearing the same clothing he had on when he left in the morning, to your knowledge?

A. To my knowledge, yes.

Q. Okay. When he came home in the evening wearing the clothes that he had worn at work, would he change upon coming home immediately or would he first do some other activities?

A. I don't remember.

Q. Okay. The times when you lived with your father, was that always in the same home or did you guys move during that occasion -- during that time period at all?

A. Two homes.

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Q. Okay. Focusing on the first home, what years did you live in that home?

A. From 1959 until 1974, I believe.

Q. Okay. And the second home, what years did you live in that home with your father?

A. The two years or three years.

Q. From approximately '74 to '76 or '77?

A. '76.

Q. Okay. In the first home, was there a laundry room?

A. Yes.

Q. Okay. Where was the laundry room located within the home?

A. Right off the kitchen.

Q. Was it separated from the kitchen by any door or any type of barrier?

A. No.

Q. Was there both a washing machine and a dryer?

A. Yes.

Q. Okay. Were -- do you have any recollection of your mother washing your father's clothing?

A. I have recollection of her doing laundry. Whether it was just dad's clothes, I doubt it. It was the whole family's.

Q. With respect to your father's clothing that he

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wore to work, do you know whether that clothing was shaken

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out at all before it was actually washed?
A. I have no knowledge of that.
Q. Okay. Was the -- were the laundry facilities in a separate room off the kitchen or was it just a portion of the kitchen that had the laundry room in it?
A. No. It was kind of like a hallway, and then the -- the laundry and -- and then a walkway in the kitchen. It was opened up, though, altogether.
Q. Okay.
A. That is when it was in the house, because she had an old washing machine out in the garage for awhile.
Q. When was the washing machine out in the garage?
A. Up until probably the early '70s. Maybe before, the late '60s.
Q. Do you have any recollection of your mother doing any laundry in the garage?
A. Yes.
Q. Okay.
A. Because the machine had rollers.
Q. What's your memory of that, seeing your mom do laundry in the garage?
A. Squeezing the clothes through the rollers and her having very red hands from ringing them out.
Q. Okay.

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A. And her big wooden spoon.
Q. Okay. And would she then hang the clothes to dry?
A. Yes.
Q. Okay. Where would she hang the clothes to dry?
A. In the back yard.
Q. When she would wash the laundry in the garage, did you ever assist in that process in any way?
A. No. I just watched.
Q. When she would wash the laundry in the garage, do you have a recollection of her processing the laundry in any way before she'd actually washed it? And by that, I mean shaking it out or doing anything else to it before she actually washed it.
A. I mostly remember watching her with the washing machine because it was quite an operation.
Q. When your father came home and removed his work clothes, do you know where he would put his dirty clothes?
A. Probably on the floor. I have no idea.
Q. You have no recollection --
A. Honestly.
Q. -- whatsoever?
A. No, no.
Q. When your father came home from work -- well, let me ask you. Did your father always come directly home from work, or do you recall him on -- having any regular hobbies

00165

or activities, such as going bowling on certain nights, or engaging in any sort of meetings on any certain nights, or anything to that effect?
A. No. He came straight home.
Q. Okay. That's all I have. Thank you.
Actually, you know what I'm -- I do have another question for you.
The garage -- as children, would you play in the garage at all?
A. Yes.
Q. Okay. Were there any type of games in the garage, such as ping-pong tables, or anything to that effect?

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A. No.
Q. Okay. Were you allowed to play in the garage, or was it something you guys would just do on occasion, or do you have any recollection of how often you did that?
A. We were allowed to play in there.
Q. Is this something you regularly did?
A. Yes.
Q. Okay. Where else would you play if you weren't playing in the garage?
A. The neighborhood.
Q. Okay. Did you guys have a front yard or back yard?
A. Both.

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Q. Okay. The garage, I imagine it had a garage door, correct?
A. Yes.
Q. Okay. Did it have any windows in it?
A. No.
Q. When your mom did the laundry, do you recall whether the garage door was kept open or closed?
A. It was probably open.
Q. Did your parents actually park their vehicles in the garage?
A. No.
MR. LANKFORD: Okay. Thank you.
EXAMINATION BY MS. KAUR
MS. KAUR: Q. Good morning, Mrs. Whiteley. My name is Jackie Kaur, and I'd like to just ask you a few questions about my clients. The first one is, are you familiar with the name Kaiser Cement Corporation?
A. Kaiser Cement? I've heard of it.
Q. And what do you associate with that?
A. Concrete.
Q. And where -- where do you get that association from?
A. My husband.
Q. What about your husband makes you associate that?
A. He is a concrete truck driver.

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Q. And what about his being a truck driver makes you associate Kaiser Cement with concrete?
A. I just -- sounds familiar.
Q. Do you know if you have ever worked with or around any Kaiser Cement product?
A. No.
Q. Do you know if your father ever worked with or around any Kaiser Cement product?
A. No.
Q. Do you know if your ex-husband Dean Moore ever worked with or around any Kaiser Cement product?
A. No.
Q. Do you know if your present husband has actually worked with or around any Kaiser Cement product?
A. Has actually?
Q. Yes.
A. No.
Q. Are you familiar with the name Kaiser Gypsum Company?
A. No.
Q. Do you know if you've ever worked with or around any Kaiser Gypsum product?
A. No.

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Q. Do you know if your father has ever worked with or around any Kaiser Gypsum product?

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A. No.
Q. Do you know if your ex-husband, Dean Moore, ever worked with or around any Kaiser Gypsum product?
A. No.
Q. You mentioned that you lived at two -- two homes with your parents. At either of those homes, was there ever any major home remodeling work done while you were living there?
A. Yes. They built on.
Q. Which home would this be?
A. 3117 Entrada Drive.
Q. Was that the first home you lived at?
A. Yes.
Q. From '59 to '74?
A. Yes.
Q. And approximately what time would that have been that the remodeling was done?
A. I -- I think I was five years old.
Q. And do you know which portion of the house there was something added to?
A. Yes. The back of the house, they added on a bedroom, a bathroom and a breakfast room.
Q. So would this have been approximately in 197 -- 1964, if you were around age five?
A. I guess, if your math is right.

00169

Q. I am just trying to -- if I add nine plus five, so '64.
And was this home remodeling done by some outside people coming in, or was this something where your father would have been involved in the construction?
A. There was a man that came and did it.
Q. Do you recall his name?
A. No.
Q. Do you recall whether he was self-employed or whether he worked for another company?
A. No. I was just a kid.
Q. Do you know if there's anyone who would be able to find out the information as to who it was who did the -- the add-on work?
A. I asked my mother. She said she believes the man is dead that did the work.
Q. Have you asked your father about this work?
A. He -- he never got back to me on it.
Q. And while this add-on work was going on, did you stay living in the house?
A. Yes.
Q. Approximately how long did this work take?
A. I don't know. I was just four or five years old.
Q. Right.
A. I don't remember that.

00170

Q. Could you estimate, say, more than a month, less than a month?
A. It would be more than a month, I imagine --
Q. Do you think it would be --
A. -- to build a bedroom and ...
Q. Right. Could you describe the kind of work that you saw being done at that time?
A. No.

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Q. You just remember that it was done while you were there?
A. Yes.
Q. At age five, would you have been in school or would you have been living at home still?
A. I would be living at home.
Q. But staying at home during the daytime?
A. I was -- I think I was in kindergarten.
Q. Was there any other type of major home remodeling done while you were living at either of the two houses with your parents?
A. No.
Q. And what about at the home you lived at with your ex-husband, was there any major home remodeling done there?
A. No.
MS. KAUR: Okay. Thank you.
EXAMINATION BY MS. CASTRO

00171

MS. CASTRO: Q. Good morning.
A. Good morning.
Q. My name is Michelle Castro and I represent a few defendants in this action.
MS. CHABER: Could you identify them, please, Counsel?
MS. CASTRO: I'm about to. Thanks.
Q. Mrs. Whiteley, have you ever heard of the name Martin Madsen Company?
A. No.
Q. Can you estimate any particular work, business or product with the name Martin Madsen Company?
A. No.
Q. Are you aware of any information that you worked around any products supplied by a company called Martin Madsen Company?
A. No.
Q. Are you aware of any information that your father worked with or around any products supplied by Martin Madsen Company?
A. No.
Q. Are you aware of any information that your husband worked with or around any products supplied by Martin Madsen Company?
A. No.

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Q. Okay. I'm also here on behalf of a company by the name of Sugden Engineering company. Have you heard of this?
A. No.
Q. Okay. Do you associate any particular work, business or product with that name?
A. No.
Q. Okay. Are you aware of any information that you worked around any products manufactured or supplied by a company called Sugden Engineering?
A. No.
Q. Are you aware of any information that your father worked with or around any products manufactured or supplied by Sugden Engineering?
A. No.
Q. Are you aware of any information that you're husband worked with or around any products manufactured or supplied by Sugden?
A. No.

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Q. Have you heard of the name Hamilton Materials Inc.?
A. No.
Q. Okay. Do you associate any particular product with that name?
A. No.

00173

Q. Okay. Do you associate any particular business or work with the name Hamilton Materials?
A. No.
Q. Are you aware of any information that you worked with or around any products manufactured or supplied by Hamilton?
A. No.
Q. Are you aware of any information that your father worked with or around any products manufactured or supplied by Hamilton?
A. No.
Q. Are you aware of any information that your husband worked with or around any products manufactured or supplied by Hamilton?
A. No.
Q. And have you heard of the name Selby, Battersby & Company?
A. No.
Q. Okay. Do you associate any particular work, business or product with Selby, Battersby & Company?
A. No.
Q. Are you aware of any information that you personally worked with or around any products manufactured or supplied by Selby, Battersby & Company?
A. No.

00174

Q. Are you aware of any information that your father worked with or around any products manufactured or supplied by Selby, Battersby & Company?
A. No.
Q. And are you aware of any information that your husband worked with or around any products manufactured or supplied by Selby, Battersby & Company?
A. No.
Q. Are you aware of any information that either your father or husband worked around anyone employed by a company called Selby, Battersby & Company?
A. No.
Q. Okay. I have a couple of general questions, Mrs. Whiteley.
You indicated to us this morning that on a few -- at least a few occasions that you visited your husband aboard a ship called the SAGINAW?
A. Yes.
Q. Okay. And that was in Newport News, Virginia?
A. Yes.
Q. Okay. At any time when you boarded that ship, do you ever recall seeing any repair work being performed to the deck of the ship?
A. I can't define "repair work," because there was always something going on on the ship.

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Q. You have -- did you testify this morning that you have been aboard the deck of the SAGINAW?
A. Yes.
Q. Okay. And on how many occasions were you on the

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deck of the SAGINAW --
A. I remember one.
Q. Okay.
A. -- that I was actually on the deck.
Q. Okay. Do you remember approximately when that was?
A. Yes, they had just came in from Cuba.
Q. Were you there meeting your husband?
A. Yes.
Q. Okay. And at that time when you were on the deck of the SAGINAW, did you see anyone tearing out the deck of the ship?
A. No.
Q. Okay. Are you aware of any information as to who originally installed the deck of that?
A. No.
Q. Okay. At any time while you were aboard the USS SAGINAW visiting your husband, do you recall seeing anyone performing any repair work to the walls of the ship?
A. No.
MS. CASTRO: Okay. Thank you.

00176

EXAMINATION BY MR. PRICHASON

MR. PRICHASON: Q. Hi, Mrs. Whiteley. I'm back just to do some general questions now.
Do you feel you can go on for another five minutes or so?
A. I sure can.
Q. Okay.
A. Can you?
Q. You don't want to ask that question, really.
The first thing I'd like just to show you the front page of, of is the Notice of Taking Discovery Deposition and Production of Documents. I am going to hand this to your counsel first.
MS. CHABER: I've seen it.
MR. PRICHASON: Okay.
Q. Have you had an opportunity to see this -- or a copy of this particular document? I'll push it across the table.
A. Yes.
Q. Okay.
A. I believe so.
Q. Now, in that document, there's a list of requests of documents, about 37 or 38 different particular items through there, and there's a number of things that I would just like to ask if you have available for us today.

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MS. CHABER: I would note, Counsel, that there was filed and served objections to the Request for Production of Documents, it was served on September 2nd, and I -- I'd attach a copy, just to keep the record --
MR. PRICHASON: That's fine. Have we attached a copy of this Notice as an exhibit at this point? I don't believe so. Then let's make it in order. We will attach as Defendants' A, the Defendants' Notice of Taking Deposition Production of Documents, and we'll have a copy made so we can attach it to the record.
And I believe then that would be -- I'm not sure -- Plaintiffs' 7 would be your objection to the notice.
MS. CHABER: Whatever the next is in order. I believe this may be correct.

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MR. PRICHASON: Recognizing we may have to modify those numbers, we'll take a break and get it clarified in a moment. May I have my own Notice back, please? My memory isn't quite good enough to do it just off the top of my head that way.

Q. Do you have any documents available that show the damages being sought in this lawsuit? I am talking about general damages and the economic and other damages available.

MS. CHABER: Are you addressing a specific

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request?

MR. PRICHASON: I'm sorry Madelyn. My apologies.

MS. CHABER: I need to follow along --

MR. PRICHASON: Certainly.

MS. CHABER: -- to see what the objections were and what we said we would produce.

MR. PRICHASON: Okay. I am referring to page 3, request 3 of the Defendants' Notice of Taking Deposition, and I am looking for -- you've made an objection to it, but I am asking if there are any documents available that show the damages being claimed or sought in the lawsuit, which is a general question.

MS. CHABER: With respect to the medical bills, I do not know to what extent those have been produced as part of our normal production of documents, so those may well have been produced.

Beyond that, we have no documents here, and I don't waive -- I don't have objection to producing medical bills. I have an objection to taxpayer records.

MR. PRICHASON: Understandably.

Q. Just in reference to this and -- I believe from the testimony yesterday, that you, for the last several years, at least, have been basically a housewife and homemaker, and trying to take care of the -- of the kids. Is that a fair description so far?

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A. For the last ten years I've been a stay-at-home mother.

Q. Right. And had you had any plans in the near future to return to outside work?

A. Some day I would like to go to college.

Q. Let me -- I appreciate that. Let me rephrase that.

Before you were diagnosed with your current illness, had you any specific plans in the -- in the next year or two, to get an out-of-the-house income earning job?

A. Not specific plans, no.

Q. Thank you.

I am now turning to page 5, item number 24. Do we have any documents available that refer to the -- your prior income earning positions, wage statements, earning income issues, anything of that sort?

MS. CHABER: No.

MR. PRICHASON: All right.

Q. Do you have -- referring to item number 28. Do we have any documents that give us specific information regarding Ms. Whiteley's former employees -- ers?

MS. CHABER: I believe that the Social Security records were provided previously in response to, I believe the first set of interrogatories.

MR. PRICHASON: If I misread -- I only saw them as

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referring to her father's Social Security records. If hers are attached, I apologize. I may have overlooked those.

Can anyone help me out? Do we have Ms. Whiteley's Social Security records? Not being critical, I am just saying I didn't see them and if -- do you know if those have been ordered?

MS. CHABER: Yes. If you look at response 26 to the General Order, interrogatory set number 1, it says that we have not received the copies of the Social Security records, but we listed the jobs and the employers that she had, and you will see listed the Plaintiff's jobs --

MR. PRICHASON: Right.

MS. CHABER: -- and Bee's Housekeeping.

MR. PRICHASON: Correct.

MS. CHABER: And -- and then subsequent to that is listed the father, the husband --

MR. PRICHASON: Right.

MS. CHABER: -- and so forth, and their jobs.

MR. PRICHASON: Would it be fair -- I'm sorry. I didn't mean to cut you off.

MS. CHABER: I just wanted -- and I believe -- correct. Only the -- the father's Social Security records are attached to the second set, which leads me to believe we had not received them as yet. I have no problem, once we get them, producing them.

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MR. PRICHASON: Understandably.

Q. Then just what we are referring to is some specific document information, Ms. Whiteley.

On page 12 of your -- the first set of interrogatory answers is a list of your employers.

A. Yes.

Q. Did you have, when you helped put this information together, any paperwork or documents or -- or old wage statements that referred to any of these employers or was this strictly from memory?

A. I think when I did that, was from memory.

Q. Okay.

A. I do have just a -- a receipt here and there for, you know, pay.

Q. If you could show those to your attorney -- I'm sorry?

MS. CHABER: Just to be clear, Counsel, though, we are not making any wage loss claim based on --

MR. PRICHASON: On he can.

MS. CHABER: -- employments that occurred in 1980, so there is not -- I would object to it not being relevant on those issues; but again, if I have something and she has something, I will take a look at it and --

MR. PRICHASON: I understand. That's all. I am just asking her to show it to you so if we've got something

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available, let's keep it simple and we can worry about whether it's appropriate or not. Let's see if we've got something to argue about first.

Q. Finally, just a few other questions, and then -- once again, relates to the prior work history of yours.

Do you have any documents or information on -- in some sort of paper form talking about your supervisors or co-workers, or anything of that sort --

A. No.

Q. -- from any of your jobs?

A. No.

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Q. Okay. And finally, do you have any -- the term here is -- I'm just going to read this on item 30 on page 5 of the Request to Produce, all family bibles and other writings identifying or relating to the genealogy, ancestors, decedents and/or relatives of the allegedly injured party.

MS. CHABER: And we objected to this as an invasion of -- of privacy, and that there is no sufficient particularity of what is sought in any of this, nor do I believe it's related to the issues in the lawsuit or likely to lead to admissible evidence.

MR. PRICHASON: Preserving your objection.

Q. I am just asking, do you have anything in a written form which relates to your family history or

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genealogy? And if you do, could you please just tell us what it is, and then you can give it to your attorney and we can figure out whether we are going to argue about it or not.

MS. CHABER: We are going to argue about it.

MR. PRICHASON: Okay. I am just asking, does she have anything that we can -- that's worth arguing about, is what I am trying to find out. If she has nothing, then the whole question is moot. If she's got something, give us an idea what it is.

MS. CHABER: Just answer the question as to whether you have anything.

THE WITNESS: Yes, I have genealogy.

MR. PRICHASON: Q. It is just -- what form is it in? Is it a printout? Is it a handwritten thing? Is it on a bible? I am looking for that type of information.

A. Various.

Q. Okay. If you could be so kind as to provide that to your counsel so she can take a look at it and we can have a formal way of finding out what we need to argue about, that would be helpful.

MS. CHABER: I have, Counsel --

MR. PRICHASON: I didn't know. I am just asking.

MS. CHABER: I have. And to the extent that it was information responsive to the General Order requests

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for information with respect to cancer, respiratory illness and so forth, we provided. And I believe to the extent that there were even any death certificates, we provided those, as well, in response to General Order interrogatories and requests to produce documents.

Beyond that, I'm objecting as an invasion of privacy and not sufficient particularity.

MR. PRICHASON: Has -- I'm sorry. I'm cutting you off, and I really apologize.

MS. CHABER: It's okay. I think I said it already.

MR. PRICHASON: Is there a privilege log created on that?

MS. CHABER: A privilege log? Only in the sense that -- no. Not specifically as a privilege log, page-by-page. We are objecting to the production of genealogy reports.

MR. PRICHASON: I'm certainly not going to -- you know, try to beat this any further; but maybe at a break we can just talk it over and find out what we are dealing with here, and I appreciate your patience on that.

MS. CHABER: I'd be happy to meet and confer,

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Counsel.
MR. PRICHASON: Right. I just have some general questions that are not client-specific to anyone, so bear

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with me for a moment.
Q. You, for some time, were employed as a truck driver, correct?
A. Yes.
Q. At any time while you were -- strike that.
You also went through a training program to get that truck driving certificate --
A. Yes.
Q. -- correct?
Let's start with the training program. During the training program itself, did you participate in any brake or clutch maintenance or repairs?
A. Only adjustment.
Q. Was that during the training program?
A. Yes.
Q. When you did any of the -- these are brake adjustments, correct?
A. Yes. Brake adjustments.
Q. Were you -- did you have to remove any brake parts in order to -- as part of the training program?
A. No, not to adjust brakes.
Q. Well, just part of the program, this is what a brake looks like, type of thing?
A. No.
Q. Did you ever handle any brake parts?

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A. No.
Q. Did you ever see, touch or come in contact with any used brake parts as a part of your training program?
A. No.
Q. So the brake adjustments were basically done with a fully intact brake system, correct?
A. Yes, on the truck.
Q. On the truck.
These were air brakes?
A. Yes.
Q. At any time, do you know the manufacturer's name, brand name or supplier of any of the brake materials on the vehicles you trained with?
A. No.
Q. Did you -- was there any sort of motor pool set up in the training program you were in where various vehicles were parked and/or maintained?
A. Well, we had our trucks that we drove.
Q. Was there any sort of repair or maintenance facility in that training center?
A. Yes, but not by students.
Q. Did you ever visit the repair or maintenance facility during the training program?
A. No.
Q. Now, as a truck driver you worked for two or three

00187

companies. I'm not worried about the specific companies right now; but at any time for any of those companies, did you ever participate in any brake repairs?
A. No.
Q. Did you participate in any brake removals?
A. No.
Q. Did you ever have to blow out any brakes with an

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air hose?
A. No.
Q. Did you do anything with the brakes other than adjust them?
A. Only adjust my slack adjusters. That was --
Q. Okay. Did you ever have, in any of the companies you worked for, a motor pool where vehicles owned or operated by the company were maintained or overhauled?
A. Yes.
Q. Did you ever visit any of those motor pools?
A. I had been in the shop.
Q. Okay. Of which company?
A. Hub Steel.
Q. Hub Steel?
A. Yes.
Q. Thank you.
Did you ever see any arcing or grinding of any brake materials at Hub Steel?

00188

A. No.
Q. Do you know whether they did any arcing or grinding?
A. Not on brakes, no.
Q. Did you, in general, from training to working as a truck driver, participate in any clutch repairs?
A. No.
Q. Did you ever see any clutch repairs performed, either in training or any of the truck driving work you did?
A. No.
Q. Can you identify the manufacturer's name, brand name or supplier of any brake or clutch materials at any of your truck driving jobs?
A. No.
Q. Now, you indicated that in your interrogatory answers, that Mr. White had done some brake repairs on a number of vehicles, and you claim some exposure to -- potential exposure to the brake materials based on a 1979 Chevrolet station wagon, 1990 Chevy Suburban and 1988 Mazda brake jobs I am just recording this to make it easier for both of us.
A. Yes.
Q. Did you assist in any way with your husband when he did any brake work on any of your vehicles?

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A. No.
Q. Did you see any of the used brake parts that he took off or removed from any of these vehicles?
A. Did I see them?
Q. Yes, ma'am.
A. Yes.
Q. Did you handle them in any way?
A. No.
Q. Did you -- do you know whether your husband either did any arcing or grinding himself or had any of the brake materials arced or ground?
A. No, he didn't.
Q. Did you see how your husband cleaned out the brake drum area after removing the brake parts?
A. No.
Q. Do you know whether your husband used a rag, an air hose, or some other method of removing brake dust?
A. No.

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Q. In general, do you know where this brake work was performed? In a garage in a driveway on the street?
A. A driveway.
Q. All outdoors?
A. Yes.
Q. Okay. Do you have any knowledge of the manufacturer's name, brand name or supplier name of any of
00190
the brake materials removed by your husband?
A. No.
Q. Do you have any idea of the manufacturer's name, brand name or supplier name of any replacement brake parts?
A. He would know that, I don't.
Q. I have to ask you, though.
A. I know.
Q. He's not here.
A. I don't know.
Q. That's okay.
Just one final thing with that. Did you ever see any of the packaging that any of these new or replacement brake materials may have come in?
A. I don't remember that.
MR. PRICHASON: That's fine. I appreciate your patience. Thank you very much.
MS. CHABER: We've been going a little more than an hour, or just about an hour. Why don't we take a break. And are there more --
MR. BARRON: Have the asbestos people completed their work?
MS. CHABER: That's what I was just going to find out.
MR. PRICHASON: Theoretically, we are done.
MR. COLE: I don't have any other questions,
00191
although I would reserve my rights.
MR. PRICHASON: Yeah. We all do.
MS. CHABER: Of course.
MR. PRICHASON: So for all practical purposes, at this time we think and we hope we are done.
MS. CHABER: Obviously, you may have questions later, there's no --
MR. PRICHASON: Thanks for the patience.
MS. CHABER: You are welcome.
VIDEO OPERATOR: Going off the record. The time is 11:21.
(Recess taken from 11:21 to 11:49.)
(Whereupon, Defendants' Exhibit No. A was marked for identification.)
(Whereupon, Plaintiffs' Exhibit No. 7 was marked for identification.)
VIDEO OPERATOR: We are back on the record. The time is 11:49.
EXAMINATION BY MR. BARRON
MR. BARRON: Q. Good morning. Are you ready to proceed with your deposition?
A. Yes.
Q. Are you feeling well enough, as far as you can tell, to give accurate and complete testimony?
A. Right now. I did have to take a pain pill for a
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headache, so I'll let you know if I start feeling a little out of sorts.
Q. Okay. I appreciate that. It's important that you

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be the one to monitor closely how you are feeling, and then to let me know if you believe that in any way your physical state is preventing you from doing your best job in answering completely and accurately. Okay?
A. Yes.
Q. Because I will not know that just from looking at you or from your answers, because I don't know what your answers would be. Okay?
A. Okay.
Q. Have you ever given a deposition before?
MS. CHABER: Do you want to introduce yourself?
MR. BARRON: I am going to, yes.
THE WITNESS: No.
MR. BARRON: Q. My name is Jerry Barron, and I will tell you that I represent one of the defendants, it's Philip Morris, in the case. As I do that, I'd like to, since you haven't had a deposition before, make sure that you are clear on what, at least, I think ought to happen as I ask you questions. Okay?
And, first of all, I want to make sure that, as counsel earlier said, if you don't understand anything that I ask you, just indicate you haven't understood it, for

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whatever reason.
Sometimes lawyers have a habit of using a word or phrase that we have developed an understanding about but it doesn't make a lot of sense to others, and I don't want that to happen to you.
So for whatever reason, don't in any way be embarrassed about it, just say "I didn't catch the question," "I don't understand it. Could you either repeat it ..." if you haven't heard it or if you've heard it but not understood it, say "I didn't understand it." Okay.?
A. Okay.
Q. In addition, I want to reemphasize that at any time if you want to take a break or recess, if you are still feeling well enough you think to continue, please ask for the break or recess and we can give it to you at any time.
I plan to try to stop about on the hour, and if Counsel thinks that you need an earlier break, she can suggest that and I'm happy to comply with that suggestion. Okay?
A. Okay.
Q. And if after a break you don't feel well enough to continue, I'm sure you'll do the right thing, which is to tell your lawyer about that, and she'll tell us and we'll just come back another day. Okay?

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A. Okay.
Q. If I ask you a question that you have understood but you don't know the answer to it, obviously what you should say is that you don't know.
On the other hand, the law, I don't think -- and the Judge is to help us in this regard -- requires you to have certain knowledge about something or even complete knowledge about something. You are permitted to give your best knowledge, your best recollection, your best understanding, and you can always qualify it in your answer saying that you are not certain or that you have a partial recollection or a partial amount of information to give, but not all, because you can't remember or you don't know. Do you understand?

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A. Yes.
Q. Okay. And you'll do that for us?
A. Yes.
Q. As I mentioned just a moment ago, my name is Jerry Barron and I represent one of the defendants, the defendant is Philip Morris. You understand that it is a company that has something to do with cigarettes, correct?
A. Yes.
Q. Do you know anything about it, in terms of, for example, whether it's a corporation or not?
A. No.

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Q. Do you know, for example, whether it has a Board of Directors?
A. No.
Q. Do you know, if it has a Board of Directors, who might be on the Board of Directors or whoever was on the Board of Directors at any point?
A. No.
Q. Do you believe you have ever heard any statement made by a member of the Board of Directors of Philip Morris?
A. No.
Q. Do you believe you ever read any statement in print that was purportedly from a Board of Director of Philip Morris?
A. No.
Q. Companies that are corporations have officers, they are called -- people who have certain responsibilities for certain areas of the business, and sometimes the -- they have what's called a president or a chief executive officer, sometimes they have both. Do you know whether Philip Morris has ever had any of that?
A. I'm not familiar with corporate going doings on's, so no.
Q. Then it follows, I guess, that you don't know if there ever was a president or chief executive officer of

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Philip Morris, who that might be, is that correct?
A. Yes.
Q. Okay. Have you ever heard a statement made, you thought, by a president or chief executive officer of Philip Morris?
A. No.
Q. Or ever read a statement that was purportedly from a president or a chief executive officer of Philip Morris?
A. Not that I am aware of, no.
Q. There are other officers that companies have and other people in authority with the company. Would your answer be the same for any such that Philip Morris had?
A. Be the same as --
Q. As what you've just answered for --
A. As in my knowledge of the company make-up? No, I have no knowledge of corporations.
Q. So is it true, then, that you have not heard, to your knowledge, any statement made by any other officer or person in authority at Philip Morris on any subject?
A. "Authority." I remember on the news when they testified in Congress that nicotine was not addictive, that was on TV on the news, but I have no idea who those people were that testified, if that involves the -- the question you asked me.
Q. Did you watch that episode of testifying live

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while it was happening?
A. No.
Q. You saw part or all of it in a television news commentary or review?
A. A film clip, yes.
Q. Do you know which people you saw making any statements or heard making any statements?
A. Only that they were from the tobacco company. I don't know which company, even, that was testifying, just that they were all saying "no" in the voting, is what -- the film clip that I recall seeing on the news.
Q. Do you recall seeing more than one person from a tobacco company making a statement about the question of whether nicotine was addicting?
A. No statements, just they -- no.
Q. So what you remember is a person saying "no"?
A. Just vaguely the -- the story of the testimony, that they all voted "no" to Congress.
Q. So what you vaguely remember seeing on TV is the TV reporting that some or all of tobacco company people said "no" to the question whether nicotine was addicting?
A. Yes.
Q. You don't actually remember seeing the tobacco person or people who did that, actually do it, is that true?
00198
A. They had a film of it, but I couldn't identify them as, you know, saying it was you or you or you. Faces.
Q. Can you remember anything else that related to this episode that you recall seeing or hearing about, other than a question being asked whether the person or people present believed or thought that nicotine was addicting and then the response being "no," from one or more people?
A. No. That was just it.
Q. Okay.
A. I'm not a news watcher, really.
Q. That didn't have any impact on you, did it?
A. I don't know what you mean by that.
Q. Well, did it cause you to change your thoughts in any way?
A. Well, all I know is that what I heard that the tobacco company had said, that -- in the thing they voted no, that they did not believe anything tone was addictive.
Q. Did it change your thoughts in any way?
A. I don't recall.
Q. You have no recollection, one way or another, concerning whether your thoughts were changed?
A. No. Only that they testified that it was not addictive.
Q. But I am speaking of your reaction to what you saw or heard.
00199
Is it true that you have no recollection, one way or another, whether your feelings or thoughts were changed in any way by what you saw and heard?
A. If they voted to Congress, I would say they -- I believed them.
Q. Did that change your belief about whether nicotine was addicting or not?
A. Change my belief? I -- I was addicted to cigarettes, I smoked.
Q. That's what you believed before you heard the

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testimony, correct?
A. Well, I did smoke cigarettes.
Q. Before you heard the testimony, did you believe that you were addicted to cigarettes?
A. I could not quit.
Q. Did you believe you were addicted?
A. If I couldn't quit, I suppose I'm addicted.
Q. Before you heard the testimony and the news report about it, was it your belief that you couldn't quit because you were addicted to nicotine?
A. The question again? I'm sorry.
Q. Before you heard the news reports, and whatever portions of the testimony you heard that we are talking about, did you believe that you could not quit smoking because you were, in fact, addicted?

00200

A. At that time, I did -- I -- I wasn't trying to quit smoking. So I -- I can't say what my opinion was.
Q. You didn't have a belief whether you were addicted or not?
A. To cigarettes? I smoked. I -- it was something I did every day. I -- you get up and you smoke a cigarette. I -- I guess that's addiction.
Q. I don't want you to guess. I am trying to find out what you thought and believed.
And what I am asking you again is, what you thought and believed before you heard you heard this news report, and the portions the testimony that you heard and saw about nicotine and addiction. I am asking you, before that time did you think or believe or feel that you were addicted to cigarettes?
A. Cigarettes, yes. I was addicted to them because I was smoking them.
Q. And for how long a time had you felt that way?
A. I -- I can't say I really thought about it.
Q. Can you ever remember a time when you didn't feel that way?
A. Feel what way?
Q. That you were addicted to cigarettes.
A. I don't understand that question, that -- I don't understand it.

00201

Q. Okay. What part of it don't you understand?
A. All of it, obviously.
Q. Okay.
A. You asked --
Q. We -- you've testified just a moment ago that before you heard and saw this news report about tobacco company people testifying, and before you saw the clip of a portion or all of that testimony, you, in fact, couldn't quit smoking and you believed you were addicted?
My question is, for how long did you feel that --
A. I don't.
Q. -- before hearing the testimony?
A. I don't know how long.
Q. You have no idea?
A. No.
Q. So did the testimony that you heard in the news report about it come to you as a surprise?
A. I don't really have an opinion on it. It was just a thing I saw on the news.
Q. Well, before you saw the thing on the news, you felt the way you did, and you had also heard other people

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talk about the fact that they were hooked on cigarettes or were addicted to cigarettes, correct?
A. Yes.
Q. And in fact, you had heard that frequently,

00202

correct?
A. I -- I don't know.
Q. Had you heard people express the views, before you heard this news and the clip, that cigarettes were not addictive?
A. I have heard a lot of stories about cigarettes. I don't know specifically what you want me to answer this with.
Q. I don't want you to answer really, any way.
A. You are confusing me because it's --
Q. Okay.
A. These are -- like, you want me to answer with thoughts and -- and it's -- you know, like when --
Q. I do want your thoughts, that's true. But I don't want you to answer, when I ask for your thoughts, any particular way, other than your best answer and what's the truth. Okay?
So again, what I think I was asking you is, before you heard and saw this news about the tobacco company people testifying, and saw the clips about their testimony concerning whether tobacco or smoking was -- or nicotine was addictive, had you ever heard anybody take that position before, the position being taken by the tobacco company people?
A. That it was not addictive?

00203

Q. Yes.
A. I'm sure from somebody, I -- I -- I believed the tobacco industry, that the cigarettes were safe.
Q. My question is: Had you ever heard anybody state that they thought that tobacco was not addictive, before you heard it for the first time --
A. Not addictive?
Q. Yes.
A. No.
Q. In fact, had your mother told you that she thought that she had been addicted to cigarettes?
A. No.
Q. Had your mother told you that?
A. No.
Q. Had your sister told you that?
A. No.
Q. Had your -- one or more of your friends told you that?
A. No.
Q. Had any of these people told you that they believed -- that they had tried quitting, but were not able to?
A. No.
Q. Did anybody ever tell you that, before you heard this news and saw this news with the clip of the tobacco

00204

company people?
A. I'm sure somebody in my lifetime had told me they had tried to quit smoking and couldn't, but I couldn't identify who said so.
Q. Now, other than this news that contained the statement about the testimony of the tobacco company people

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and the clips about their testimony concerning whether nicotine was addictive, have you ever heard a statement made by someone that you believed was employed by or associated with the tobacco company concerning any subject, other than statements made in advertising?
A. I don't understand what that means.
Q. Okay. You, in the past, have heard and seen advertising on television, you mentioned, right?
A. Yes.
Q. And you, in the past, have seen advertising on billboards?
A. Yes.
Q. And you, in the past, have seen advertising in print in magazines, or newspapers, or both?
A. Yes.
Q. And that advertising was advertising cigarettes that you assumed was with the authority of some tobacco company, correct?
A. Yes.

00205

Q. Other than that which I just mentioned, have you ever heard or seen a statement made by someone that you thought was employed by a tobacco company, or associated with a tobacco company concerning smoking cigarettes, or any related subject?
A. Only that news clip.
Q. The one we just talked about?
A. Yes.
Q. Do you know what an organization called the Tobacco Industry -- Industry Research Committee was?
A. No.
Q. I take it, then, you don't believe that you have ever heard or seen a statement ever made by it, or someone employed by or authorized to make statements for it, correct?
A. Not that I'm aware of.
Q. Have you ever heard of an organization called the Council For Tobacco Research?
A. Not that I know of.
Q. Is it true, then, that you do not believe that you have ever heard or seen a statement made by such an organization, or anyone employed by or associated with it?
A. Not that I know of.
Q. Have you ever heard of an organization called The Tobacco Institute?

00206

A. I think so, but I'm not sure.
Q. What makes you think that?
A. I just -- I don't know. Maybe just "institute." I don't know.
Q. Tell me everything you think you've ever heard or ever known about it.
MS. CHABER: Well, I am going to object to that. I think that's slightly overbroad, to everything you ever think you've heard or known.
JUSTICE DOSSE: Sustained.
THE WITNESS: I --
MS. CHABER: You don't have to answer when the Judge says "sustained."
MR. BARRON: Q. Other than the fact that you think you may have heard of it, have you ever seen or heard a statement made by it, or on its behalf, by an employee or someone associated with it, to your knowledge?

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A. Not to my knowledge.
Q. Before you were diagnosed with lung cancer, had you ever heard of something called "the frank statement"?
A. No.
Q. Have you seen such a document in your whole life?
A. "The frank statement"?
Q. Yes.
A. No.

00207

Q. The full title of it is, quote, A frank statement to cigarette smokers, close quote.
Have you ever seen or heard about it?
A. No.
Q. To this day?
A. I don't think so.
Q. Since the time that you first heard -- other than advertising -- the statement made by some tobacco company people that was reported in the T.V. news that we just talked about, have you ever, since that time heard, any other statement made by a tobacco company or one of its officers, directors, employees or anybody associated with it?
A. Not that I recall.
Q. Following the one and only statement that you believe you've ever read or heard from a tobacco company or one of its people, did you in any way do anything differently, in your opinion, than you would have done otherwise, following that statement?
A. No.
MS. CHABER: Objection. Calls for total speculation, and vague and ambiguous.
JUSTICE DOSSE: You can rephrase it.
MR. BARRON: Q. You didn't --
I'll accept the answer.

00208

MS. CHABER: Wait, wait. The Judge asked you to rephrase it.
I move to strike the answer.
JUSTICE DOSSE: I am not going to strike the answer, but the objection was sustained. You can ask it again in another form.
MR. BARRON: Q. Do you believe that the statement by tobacco company people reported in the news that we have been talking about, made you do anything that you would not have otherwise done if you hadn't heard that statement?
A. I didn't do anything. It didn't cause me to do anything.
Q. Do you believe that in any way it made you not do something that you were planning on doing, or would otherwise have done?
A. I -- I didn't do anything.
Q. I think we have some exhibits that your attorney asked some questions about that are in front of you. Would you try to find, please, Exhibit 4-A through 4-S for me?
MS. CHABER: She's got it.
MR. BARRON: She is looking through them. I want to make sure she had a chance to do what she wanted to do.
THE WITNESS: Yes.
MR. BARRON: Q. Okay. From where did those

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come?
A. My attorney.

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Q. Did they come to you in this form, meaning stacked together just as they are now?
A. I -- I just picked them up. Yes, sir.
Q. I'm trying to find out if there were other such items from which you selected this particular series, or whether these were handed to you just as they are now, as a group --
A. Oh, I understand.
Q. -- that have now been numbered 4-A through 4-S?
A. I understand. These were -- these were some ads that looked familiar to me that I had seen in the past.
Q. Okay. But were you shown other ads that did not look familiar to you?
A. Yes.
Q. Okay. So where are the other ones that you looked at from which you selected these that looked familiar to you?
A. I don't know.
Q. In what form were they presented to you, the greater number of them from which you identified or selected these that you thought looked familiar to you?
A. In what form?
Q. Yes. Were they a stack of things just like this?

00210

Were they in a book, in a binder, or what?
A. I believe it was a book. I'm not sure.
Q. Was it more than one book?
A. I don't remember which ...
Q. When you say a "book," was it a three-ring binder-type book, like the one that I am showing you that I have, but perhaps a different color?
A. No.
Q. Can you describe the book for me, or books?
A. I remember looking through a Camel book.
Q. Okay. But what I am showing you now is in Exhibits 4-A through S, were, I believe, all Marlboro --
A. Yes.
Q. -- ads. So I -- I wouldn't think that you would have selected those from what you call a "Camel book," so --
A. No. No, I did not select these from a Camel book.
Q. Okay.
A. But I was trying to remember if they were in a book or if they were posters. I don't -- I don't recall which one it was.
Q. When did you do this, make the selection from the greater number of ads that were presented for your review?
A. Within the last week, I believe.
Q. Can you give me an estimate, as -- as most

00211

accurate as you can for the number of photographs of ads or material that you looked at from which you identified these from Marlboro that looked familiar to you, you thought?
A. There were a lot -- a lot more than this. A lot were older ads, and I couldn't give you a number, honestly.
Q. Let's focus now, if we can, and look at these that you have before you that you selected as the ones that you thought looked familiar to you, these that are numbed now Exhibits 4-A through 4-S.
A. Uh-huh.
Q. Can you identify any that you know that you saw before you first tried smoking a cigarette, that cigarette that you mentioned you first smoked with your friend when

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you were about 13?
A. You mean specifically? No, I can't say that I saw this picture on a billboard before I smoked that cigarette. That would be a heck of a memory, I guess.
Q. Can you identify any of these that are exhibits, 4-A through 4-S, that you know that you saw before all others?
A. I remember the -- the Marlboro man campaign as a child, always -- he was on billboards everywhere and throughout, you know, getting older.
Q. What --
A. But I can't say, hey, this was on Highway 33, and

00212

I saw this one, you know. It's --
Q. What I am asking now specifically about are the exhibits that are before you, 4-A through 4-S. Can you identify which of those you saw before all of the rest of them for the first time?
A. Which of those I saw before the rest of them?
Q. Yes.
A. I remember most of the Marlboro men, the cowboys.
Q. But to be very specific, each one of those pages are numbed with an exhibit and a letter associated with it.
A. Uh-huh.
Q. The number is 4, the letter associated for each page is A through S.
A. Yes.
Q. Can you pick out a letter of the alphabet for those in there that you know represents the first of those in that group that you saw before all others?
A. I couldn't tell you in what order I saw these in my life.
Q. Okay.
A. I -- that would be a remarkable memory.
Q. The first impression that you have is of -- I wasn't clear -- cowboys for Marlboro?
A. Yes.
Q. Okay. What I'd like to do is go through these

00213

with you, and at least for the time being go through them in the order in which they are numbed and lettered, so let's deal with 4A first, if we could.
A. Uh-huh.
Q. Would you look at it carefully and then tell me whether there are any words that you ever did not understand when you ever saw that ad.
A. Words I did not understand?
Q. Yes.
A. No.
Q. Were there any words that you ever believed had any implied, as opposed to express or explicit meaning?
A. I don't follow.
Q. Okay.
A. It's a simple ad for cigarettes.
Q. Do you know -- when I say "express," and "explicit" versus "implied," what one would mean by that?
A. Not from you.
Q. Okay.
A. You are confusing.
Q. Okay. Let's -- I don't want to confuse you.
A. You are.
Q. Okay. We don't want to do that, as we mentioned. We want to be able to not be confused and communicate, so

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let me just make sure we understand.

00214

When people talk about "express" words, they mean, for lack of a better phrase, "direct."

So if I were to say to somebody, "Would you please shut the door," it's pretty express that what I want somebody to do is shut the door.

A. Uh-huh.

Q. Okay?

"Implied" might be, "It's getting pretty drafty in here. Can somebody do something about it?" And that might be an implied statement that I'd like the door shut. Do you see the difference?

A. I think so, yes.

Q. Okay. So the question I have is -- and I think you've sort of hinted at it before -- it seemed pretty simple and direct to you what was on here, correct?

A. Yes.

Q. Meaning pretty express, pretty explicit?

A. That it says it's the better smoke.

Q. Anything else that you think might be implied in that statement?

A. No. Just that you guys are telling me it's the better cigarette.

Q. Now, the ad before you also has some imagery of some objects or scenes, doesn't it?

A. A hand. You all are handing me a pack of

00215

cigarettes.

Q. And it has a pack of cigarettes, right?

A. Yes.

Q. Are there any images, meaning any objects or any scenes in there that you don't recognize or don't understand?

A. I don't know what you mean by that. It's a pack of cigarettes.

Q. Exactly. So you recognize it all?

A. I recognize it as a pack of cigarettes, yes.

Q. Did you ever think, whenever it was that you may have seen this ad, that this ad had any particular appeal to one sex over another, meaning men over women or women over men?

A. Looking at it now, it's a man's hand; but, no, not ...

Q. Did you, in the past, ever think that this particular ad had a tendency to appeal to people of certain ages over others?

A. This looks like a pretty general ad.

Q. Meaning that it didn't seem to appeal to one age over another?

A. No.

Q. Did you ever think that this ad had any particular appeal to people of certain social background over others?

00216

A. Looking at it now, it looks like it's for everybody.

Q. Did you ever have a different thought or opinion about it, whenever it was that you saw it or may have seen it?

A. Not that I recall.

Q. Did you ever think that this ad had any particular appeal to people of certain economic background, compared with others?

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A. Not that I recall.
Q. Do you see anything in it now that you think might have a certain appeal to particular economic background over others?
A. No.
Q. Did you ever think, whenever you might have seen this ad, that it appealed or might appeal particularly to certain people of racial or ethnic background compared to others?
A. Only that it's a white hand.
Q. So --
A. But I -- no.
Q. From that, do you think that it's directed to white people in particular, rather than people of Asian backgrounds or some other background?
A. I couldn't say what it was directed towards.

00217

Smokers.
Q. Did you ever think, whenever it was that you may have seen this ad, that it had any sexual implications or any particular sexual appeal?
A. No.
Q. Okay. Now, I'd like you to look through each of the ads that follow, 4-B through 4-S, as I ask you the same series of questions. It seems to me that's the most efficient way to do this, rather than take each one?
A. Okay.
Q. But if that confuses you in any way, please let me know and I'll go back and do what I just did for each page, each letter from B through S. Okay?
A. Okay. These are all the --
Q. Right.
A. -- Marlboro guys.
Q. Uh-huh.
MS. CHABER: Right now, she is just looking --
MR. BARRON: I understand.
MS. CHABER: Okay.
MR. BARRON: I think she is trying to familiarize herself with them as a group, so I want to let her do that. And when she's ready, I'll ask her the question and then I'll allow her to go back and look through each one.
THE WITNESS: Okay.

00218

MR. BARRON: Q. Okay. Any words that you ever did not understand in any of these ads that you think you may have seen, and looked through each one now, again, B through S?
A. Any words that I didn't understand?
Q. Yes. That's my question.
A. It's all Marlboro country. I don't have my glasses with me.
MS. CHABER: Are they just reading glasses? Try mine.
THE WITNESS: I couldn't -- I can see --
MR. BARRON: Q. We are in the same position. I lost mine and I had to go to the drug store to buy them off the counter and they are not working so well for me.
A. This one, I don't -- I don't remember this one. I don't know how --
MS. CHABER: That got in there?
THE WITNESS: I understand all the words I read on the ads.
MR. BARRON: Q. I couldn't help but overhear,

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and I want you to feel free to do this at any time, which is correct, is say -- as I was saying, I want you to feel free to correct anything to make it the most accurate presentation of your knowledge and thoughts.
So I did -- I think overheard you indicate that as

00219

you looked through these you thought --
A. Yes. I --
Q. -- that you did not really ever see --
A. No, this one, I don't --
MS. CHABER: It's 4-S.
THE WITNESS: 4-S.
MR. BARRON: Q. Can you just hold that up to the camera so we have a recordation?
VIDEO OPERATOR: Okay.
MR. BARRON: Okay. Thanks.
Q. Okay. And I think you did mention that you understood, you believed, the words in all the ads, 4-B through 4 --
A. I could read every word on --
Q. -- R?
A. I could read the words, yes.
Q. Well, not just read them. You could understand them?
A. Well, yes, "Come to where the flavor is. Come to Marlboro country."
Q. Pretty direct and simple, isn't it?
A. I guess.
Q. Well, I don't want you to guess.
A. No. I --
Q. I thought that's what you were saying.

00220

A. Yes.
Q. I'm not trying to put words in your mouth.
A. Yes, I can read it. I understand what it says.
Q. You found the words in there that made up some express or explicit statements, did you not?
A. Explicit.
Q. Well, we mentioned before, statements that were direct.
A. That it -- what do you -- what do you want me to -- the question -- it's -- it's -- it's a cowboy campaign for cigarettes. Using a rugged character, is that what you meant by my "impression" that I got of, the real men smoke cigarettes, and this guy is a tough guy.
Q. Okay. So after reading all that you read, you understood what are the direct clear statements, and you have an impression on top of that, that it's portraying, in terms of the Marlboro man, a tough or rugged individual?
A. Yeah, that he's masculine.
Q. Anything else that you can think of that is in any way implied, rather than expressly or explicitly stated, in any of those ads?
A. Implied that masculine men smoke Marlboro cigarettes.
Q. Okay. Anything else?
A. No.

00221

Q. I'm sorry. I didn't hear you.
A. No, not any ...
Q. Okay. Now --
VIDEO OPERATOR: I need to change tape pretty soon, too.

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MR. BARRON: Okay.
Q. The ads, 4-B through 4-T now that we are talking about, also contain some visual images of objects or places or scenes, correct?
A. Yes.
Q. Any there that weren't recognizable by you as -- in other words, objects that you didn't understand what they were or --
A. Well, there's a barn in the background but it's blurry. It's -- if that's what you are talking about.
Q. Okay. Anything else at all?
A. The carton of cigarettes.
MS. CHABER: You are just making reference to one --
THE WITNESS: I -- I don't know.
MR. BARRON: Q. What I mean is it would be possible for an ad to contain a piece of equipment, or an object that you wouldn't recognize, you have never seen before, but is it true that these ads contain objects that you are familiar with, horses or people?

00222

A. Horses and --
Q. Ropes and people, or ropes or barns, or whatever?
A. And cigarettes, yes.
Q. Now, did you ever think that any of these ads, 4-B through 4-T, had any particular special appeal to one sex over another?
A. Actually, in a sense, yes, because women are attracted to masculine men.
Q. So you think they have more appeal to women, these ads, than they have appeal to men?
A. Only in that sense whereas it would appeal to a man, that he would want that image himself so that a woman would, you know, enjoy the Marlboro guy part of him.
Q. So did you think the ad favored one of the sexes or had more appeal to one, or did you think it was evenly balanced, the appeal?
A. As an adult, evenly balanced, in that sense that a woman would want a masculine man.
Q. But thinking back, before it was the rugged guy?
VIDEO OPERATOR: I've got to change tape.
MR. BARRON: Okay.
VIDEO OPERATOR: This marks the end of tape 1 of volume 2 of the deposition of Leslie Whiteley. Going off the record. The time is 12:39.
(Whereupon, the noon recess was taken

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from 12:39 to 2:49.)
VIDEO OPERATOR: This marks the start of tape 2 of volume 2 of the deposition of Leslie Whiteley.
Going on the record. The time is 2:49.
MR. BARRON: Q. Good afternoon.
Are you feeling physically able to proceed further with the deposition today?
A. Yes.
Q. Okay. And I suspect you don't need the reminder, but I am going to go ahead and do it anyway, just so that we are very clear.
I honestly don't want you to go forward at any time, either now or later if I am questioning you, if you don't feel you are doing the best that you are likely able to do, and that you are giving anything other than the most accurate and complete answers that you are capable of.

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Okay?
A. Okay.
Q. And I believe when we broke for the lunch recess, I was asking you about Plaintiffs' Exhibits 4-B through 4-T. And I'd like to finish up with those, if I could with you. Okay?
A. Okay.
Q. All right. And as I was doing before, I would like to ask you questions and have you give me your best

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answer as to all of them, the group of them, 4-B through 4-T. If at any point you feel that's confusing to you and you need to segregate them to talk about them separately, we certainly will do that. Okay?
A. Okay.
Q. All right. So did you ever think that any of these ads, that are reflected here on 4-B through 4-T, had any special appeal to people with certain economic background over others?
A. No.
Q. Or people of certain races or ethnic background over others?
A. No.
Q. Or people of certain social background compared to others?
A. No.
Q. Or people of certain ages over others?
A. No.
Q. Or people of certain sex versus those of another sex?
MS. CHABER: I thought that was asked and answered earlier.
MR. BARRON: It --
JUSTICE DOSSE: Overruled.
You can answer it again.

00225

THE WITNESS: That's kind of a "yes" and "no." Then or now, is what you want me to --
MR. BARRON: Q. No. At any time. What I would like to limit my question to at this point, is before you were diagnosed with lung cancer.
A. I would say this is for men.
Q. And by "this," which one are you pointing to?
A. I am pointing at 4-B.
Q. Okay. Any others about which you have an opinion that it favors one sex over the other and that you had that opinion before you were diagnosed with lung cancer?
A. No, no, no.
Q. Taking a look at all of Exhibit 4, that includes 4-A all the way through 4-T, would you please see if there is one or more exhibits, in other words, one or more ads that you believe contains an express or explicit health message indicating that cigarettes or smoking were potentially, or actually, or both, in any way not good for people?
MS. CHABER: It's vague and ambiguous.
JUSTICE DOSSE: Overruled.
Do you understand the question?
THE WITNESS: Not quite, as --
JUSTICE DOSSE: Why don't you rephrase it, then.
MR. BARRON: Okay.

00226

Q. Take a look through each of the exhibits, 4-A

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through 4-T, and as you do that, what I'd like you to do is tell me whether any of those contain any express statement, that to you indicates that the cigarette or smoking may contain or pose a health risk, danger or hazard to people.

A. Right now, because I -- right now reading, there is a -- it says, "Warning. The Surgeon General has determined that cigarette smoking is dangerous to your health." And I can read that right now. Is that what you meant?

Q. Okay. Which number is that?

A. 4-D.

Q. And like the other statements, this is one that you certainly understand each of the words?

MS. CHABER: Are you asking now as she sits here reading it?

THE WITNESS: Now? I --

MS. CHABER: I thought your question was before diagnosis, and she just said "now."

THE WITNESS: Now is what I meant, because I am reading it now. I don't recall seeing any warning labels previously on these.

MR. BARRON: Q. Looking at 4-D, is there any word in what you just read that was part of the warning that you don't understand; in other words, any of those

00227

English words that you don't recognize or understand?

A. I recognize them right -- the "Warning. The Surgeon General has determined that cigarette smoking is dangerous to your health." I just read that, yes.

Q. And is there any word that you don't understand?

A. In that phrase? No.

Q. Do you believe that your ability to understand that phrase, and each of the English language words contained in them, would not have been good in 1984 as it is today?

A. I don't know. I couldn't tell you if I even -- now, who the Surgeon General was then or what he was. She, he.

Q. Except for the words quote, Surgeon General, close quote, is there any word contained in that warning you are now reading that you think you would not have been able to understand as an English word back in 1984?

A. I don't think so.

Q. Or 1974?

A. I don't know. I -- I would think I would know what the words mean.

Q. Or when you entered high school in the tenth grade?

A. I --

MS. CHABER: Lacks foundation.

00228

MR. BARRON: Excuse me. You are right.

Q. When you entered high school in the ninth grade.

A. When I entered high school in the ninth grade, would I be able to read this and understand it?

Q. Yes, except for the words, quote, Surgeon General close, quote, about which you have some doubt?

A. Yes.

Q. You would have been able to understand all the other words, is what you are saying?

A. Yes.

Q. What about when you were three years old and attempted smoking for the first time with your girl friend

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that you described to us earlier in answering questions of your lawyer. At that age, do you believe that you would have been able to understand all the words that are in that warning you've just been reading to us, except perhaps the words, quote, Surgeon General close quote, about which you've expressed some doubt?
A. I -- I guess, but I wouldn't know whether "dangerous" would mount up to, I guess. I -- you know, will it blow up? Will it burn me? That's --
Q. So --
A. You are thinking a 13-year old's thoughts here, and I can't --
Q. Are you --

00229

A. I'm an adult, and you are asking me what the word "dangerous" means as an adult right now, which as a 13-year old, the word "dangerous," could mean you are going to fall down and get hurt. I -- you know --
Q. You certainly would have understood what "dangerous" meant had you read it on a package of cigarettes by the time you were 18 years old, correct?
A. Even then, what's the definition of "dangerous" for --
Q. Do you think you might have still, at age 18, interpreted that word to mean that it was warning people of the risk that it might blow up?
A. Not blow up, but --
Q. But what?
A. I don't know.
I don't recall reading a label, so I can't give you that honest opinion on what I would interpret it as.
Q. What other interpretations can you suggest, even if they are in retrospect now, you think not very likely, that you think you would have thought the word "dangerous" might have been warning against, other than dangerous to one's health, in that it might cause illness disease or death?
A. I didn't know it meant death or illness or disease.

00230

Q. I understand that. But what I am trying to do, if I can, is understand if you have an opinion what you think it might have meant to you at the time of this, you were certain ages, had you actually seen the warning?
A. I can't --
MS. CHABER: I would object. I think this calls for speculation, given --
JUSTICE DOSSE: Sustained.
MR. BARRON: Q. When is the first time that you saw the warning that is contained as part of Exhibit 4-D?
A. You mean right -- this one? Right now is when I noticed it.
Q. Not that photograph, but the actual language of the wording.
A. I don't know.
Q. You mentioned that it was in 1988 during the time you were pregnant with your son, Troy --
A. Right.
Q. -- that you, for the first time, recall seeing a warning on package of cigarettes, and that was the one -- this somehow related to pregnancy, correct?
A. Yes. Low birth weight, I think it was, or something of the sort.

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Q. So you can't tell us how long after 1988 it was that you saw a warning that was something that talked about
00231
health risks not dependent on pregnancy?
A. No, I can't specifically tell you.
Q. Okay. Take a look at the rest of these Exhibits 4-A through 4-T, and tell me if you find any other express or explicit statements that talk about the dangers or health risks of cigarettes or smoking.
A. It's the same one.
Q. Which one are you on now?
A. 4-G. That's, I believe, the same warning that's on the other one.
Q. And so your answers would be the same?
A. Yes.
Q. Okay.
A. The only other thing I can see on here was something about tar and -- and nicotine and stuff. That's -- whatever FTC stuff is, I don't know. That's the only other thing that I can see on the ads.
Q. Now, before you were diagnosed with cancer, you thought that there was some risk that smoking might cause, at least in some people, a cough, correct?
A. Yes.
Q. And by the time you were diagnosed with lung cancer, you also had heard about what was said in some magazines for women who were pregnant, as well as with the label of the package of cigarettes having something to do
00232
with pregnancy and development of low birth weight, correct?
A. Yes.
Q. Before you were diagnosed with cancer, did you ever believe that cigarettes or smoking caused any other kind of health risk, such as blowing up in one's face, or anything else?
A. No.
Q. Do you have any idea, as you sit here today, what health risks, if any, cigarettes ever have had, other than the risk that they might cause injury, disease or death to people?
A. Do you mean today, what I know?
Q. Yes.
A. Today, I believe that smoking cigarettes gave me lung cancer. I thoroughly believe it.
Q. Do you have any information or knowledge that leads you to believe that there ever was any risk associated with cigarettes or smoking and a risk of effect on health, other than the risk that it might cause injury by illness, death or disease?
A. Do you mean today?
Q. Yes.
A. My doctors have told me that I have lung cancer from smoking cigarettes.
00233
Q. I just want to make sure that before you were diagnosed with cancer, you never actually had the idea from anywhere, like a friend, a neighbor, reading something, that cigarettes posed any health risk to people by blowing up, or by any other process, other than the fact that if they were smoked, they did whatever they did because of the smoke being inhaled.
A. I don't -- I always thought they just gave you a

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bad cough and stuff. I didn't -- never imagined I would have lung cancer.
Q. Now, when the advertisements that have been labeled Plaintiffs' 4-A through 4-T were selected by you, you mentioned they were selected from a book or books?
A. I said I didn't know -- I didn't know where they came from. I think they were just pieces of paper or a book., it could have been either one. I don't recall.
Q. And what is your recollection of the additional number that were shown to you, other than the ones that have been marked here 4-A through 4-S?
A. I don't know what you mean by that, what recollection of what?
Q. Of the number.
A. The number of?
Q. The number of additional --
A. I have no idea.

00234

Q. Okay. I have to get my question out, because although the videotape will show it, the record will not reflect it.
You mentioned there were, I thought, a great number.
A. Well, there were other ads, but they were before I was -- I could remember, so I --
Q. That's right. That's what I am trying to find out. How many of these ads that were a great number --
A. Oh, I don't --
Q. -- were you shown that were before your time or that you couldn't remember, that you didn't select as ones that you had believed you had seen?
A. I don't know. Honestly, I couldn't tell you that answer.
Q. Can you give me your best estimate?
A. Ten. That's a guess.
Q. Have you reviewed any videos of any TV commercials or TV shows?
A. Yes.
Q. What have you reviewed?
A. Two videos on tobacco ads.
Q. Do you mean two videotape cassettes?
A. Yes.
Q. And did you try to identify or select ones that

00235

you believe you had seen or been exposed to in the past?
A. Some I had been, yes, I remembered.
Q. And some you had not?
A. Yeah. Yes.
Q. Which ones had you been exposed to?
A. The Benson & Hedges, and Winston with Barney and -- and I remembered that one. And various of the Marlboro ads were on there.
Q. Some of which you remembered?
A. Yes. Not -- not specifically I remember that one ad, but I remembered the Marlboro campaign ads on TV.
Q. As to the Marlboro ads that you saw on the video that you believe you had seen in the past, again, as to those, were there any ads or commercials that contained words that were used that you don't believe you understood when you were seeing the commercials or ads?
A. I don't know.
Q. Did any of those ads, when you saw them -- not just recently, but in your past -- in your mind tend to be

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more appealing to one sex over another?
A. I just thought it was a -- a masculine -- you know, they made the guy really masculine. That is what real men did.
Q. But did that result, in your mind when you saw the TV commercial, whenever you did in the past -- I don't mean
00236
recently, but as you were growing up --
A. Just --
Q. Did that make you at the time think that the ad was more appealing to one sex over another?
A. I couldn't say.
Q. At any time before you saw those ads recently on the videotape, did they ever seem to you in the past to be ads that had an, appeal especially to certain aged people over others?
A. I couldn't answer that, either.
Q. Or to people of certain social background over others?
A. I -- I don't know. I don't recall having an opinion at the time.
Q. Or people of certain economic background when compared with others?
A. I don't know.
Q. Or people of a certain race or ethnic background over others?
A. I -- I don't know.
Q. Did any of those TV ads or commercials that you remember seeing at any time in your past, up to the time you recently saw them and viewed them on videotapes, contain, for you at the time, any sexual innuendo or particular sexual appeal?
00237
A. At the time I was a kid? I couldn't -- I couldn't tell you what was going through my mind.
And as of now, I find them disgusting, if you want my opinion as of now.
Q. Well, certainly from age 13, for example, up to the time that you were diagnosed with lung cancer, there were times when you came across things on TV or in print, advertisements that you realized contained some special potential to have some sexual appeal?
A. I couldn't honestly give you that answer now for what I thought then. I -- I couldn't honestly tell you that.
Q. I -- I think I understand what you are saying. You couldn't tell me, one way or another, as to the --
A. Of my opinion at any time before now.
Q. Okay.
A. Because I --
Q. For the TV commercials dealing with cigarettes or smoking --
A. Right.
Q. -- no matter what brand, is that what you are saying?
A. Right.
Q. Would you take a look, please, at Exhibit 6, and it's that exhibit that has pictures of a lot of things.
00238
And I think they are on --
MS. CHABER: That's all the --
MR. BARRON: Q. -- display --
MS. CHABER: It's the paraphernalia.

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MR. BARRON: Q. With pages 1 through 31.
MS. CHABER: Yeah. Are you done with these so I can --
MR. BARRON: For the moment, yes.
MS. CHABER: So I cannot get them all mixed up with it? That was on the bottom.
MR. BARRON: Q. Now, from where did those come?
A. What do you mean? Whether -- what did what come from? The papers or --
Q. No. All the objects that are apparently photographed and then reproduced here in this Exhibit number 6 in these 31 pages.
A. These came from ordering from the cigarette companies.
MS. CHABER: Yeah. From --
MR. BARRON: Q. So these are all things that either you or your husband acquired?
A. Yes. He ordered most of them.
Q. And it's only one husband that did this?
A. Yes.
Q. And who is that?

00239

A. It's against the law to have more than one.
Q. Well, you -- no. I --
A. I'm sorry.
Q. No. That's okay. We have to have a little humor here. I was trying to be careful because you did have some --
A. Yes.
Q. -- previous marriages to your current one, and I wanted to make sure which one was the husband --
A. My present.
Q. -- we are talking about.
A. My present husband.
Q. And the other husbands that you had didn't order these kind of things, is that true?
A. I have no idea what they have done in their life since.
Q. But they didn't do it since you were married, or with them?
A. No.
Q. What I said was true? We had sort of a double negative.
While you were with your previous husbands, you do not believe that they ever ordered any of the types of paraphernalia that are shown here in Exhibit 6?
A. Not with me.

00240

Q. Okay. Can you identify any of these that are in these 31 pages that you specifically ordered, as opposed to your husband?
A. I think I picked out the black Camel lighter.
Q. You'll have to help me while you do this, if you wouldn't mind.
A. Oh. I'm sorry. That's number 11.
Q. On which page?
A. On page 3. That was my lighter. We both picked out the coffee mugs together, 75 on page 4. And the Joe -- 76, the coffee mug.
Q. On page 4?
A. Yes.
Q. That was both of you again?
A. Yes.

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Number 58 he ordered for himself, but I wore, on page 5. On page 6, the metal box. And 73, the metal canister.

Q. You ordered?

A. I used them. He did the ordering.

Q. Oh.

A. I just picked stuff out I liked.

Q. I understood that.

So maybe we better be clear. What I am trying to find out at this point, is simply which of these you

00241

ordered as opposed to your husband ordered.

A. He -- he did most of the ordering. I just told him what I wanted.

Q. So --

A. And he would -- he would fill the forms out and I -- I would make my choices.

Q. I see what you are saying.

So you were thinking of "ordered" being the one to physically fill out the form?

A. Yes.

Q. Okay. I'm glad we cleared that up. Okay.

Which of these, in Exhibit 6, then, either did you physically fill out the form and order, or were ordered by your husband at your specific request?

MS. CHABER: I think that's what she's been answering.

THE WITNESS: Well, I -- I couldn't tell you if he asked me to fill out a form for him or not on -- on any specific order. These are a lot of orders, so I can't honestly say that -- I don't even know which one of these were ordered at the same time, so I can't -- I can't answer your question there.

MR. BARRON: Q. Maybe we can get at it this way, because I don't want it to be more difficult than it has to be.

00242

Why don't you tell me, if you can, which of the items in Exhibit 6 you were the one to ask that they get ordered somehow by someone.

A. The ones just that I chose that I wanted?

Q. Precisely.

A. Yes. That's what I thought I was doing to begin with.

Q. Okay.

A. Because I -- it's -- I was saying I used the tins, and those are what I picked.

Q. So so far you've done that, you've been identifying either the ones that you picked or you or your husband picked together?

A. Yes.

Q. And 66 was something you picked?

A. Where are we?

Q. On page 6, is that correct?

A. Yes. 66 and 73, I believe --

Q. Okay.

A. -- on page 6.

On page 7, 49 and 36. 14, he did order for me.

Q. Again, though, because --

A. That was his choice. It was a -- he -- he chose that for me, but it was my pocket knife. Do you understand that?

00243

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Q. I think I do.
He came up with the idea and ordered it, but he did it for you?
A. Right.
Q. Okay.
A. 60 on page 11, I believe I wore as a night shirt.
Q. Okay. But does this mean that you requested that it be ordered?
A. I don't recall that. I'm just telling you I wore it as a night shirt.
48 on page 18, it looks like 43 -- no. 48, because it's a large was -- was mine, on page 18. 79 on 19, I asked him to order the towels. 56 on 21, they were nice coffee mugs.
Q. That was something that you wanted to have ordered?
A. Yes. 71, I asked him to order the flashlight on page 22.
29, this key chain was mine. I kept my car keys on it, on page 22, but I don't recall if I asked him to order it or not. It may have even come free. I -- I don't know.
And number 32, and 2, I wore both of these shirts. I always wore them, on page 23.
Q. So you asked those to be ordered?

00244

A. He probably -- since it's extra large he ordered them for himself, but I wore them. Same with 52 and 42.
And I specifically asked him to order number 59 on page 25 for me. I also specifically asked for the t-shirt 63 on page 27.
Q. Can you read what that says, or by memory be able to tell us, or both?
A. Not by memory. It says, it's a chopper, something about cowboys stand out from the herd, or something. Oh, here. Oh. Duh. Thanks.
It says, "Cowboys still saddle up, only today it's not always a sleek stallion. It's a chopper with bright chrome, a loud temper and an unbridled urge to stand out from the herd. Head out Marlboro."
And number 82 is a shirt that I wore, he ordered for himself but I confiscated it.
Q. What page is that on?
A. Oh, I'm sorry. It's the last one, 31. "Confiscated it," meaning took over.
Q. Okay. Thank you for doing that.
As you look through them --
A. That was as best as I could remember.
Q. Sure.
A. There's a lot of stuff.
Q. Does this Exhibit 6 reflect and show all the

00245

cigarette or smoking paraphernalia that either you or your husband still have, to your knowledge?
A. This?
Q. Yes.
A. He said he received a cigarette mailer in the mail yesterday --
Q. Other than that --
A. -- or the day before.
Q. Other than that, does this Exhibit show all the things that either of you still have, to your knowledge?
A. No. There's a barbeque in the garage. Couldn't

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mail it. It was --
Q. Anything else?
A. That I know of, I don't know. I think we got it all. It's a hibachi from -- I believe from Marlboro.
Q. These were all seen by you for the first time some time long after you had your first cigarette at age 13, is that true?
A. What do you mean, these products here is --
Q. All the items that are --
A. Here.
Q. -- shown here in this exhibit are items that you first saw long after you had your first cigarette at age 13, is that correct?
A. Yes.

00246

Q. Do you know of any such cigarette paraphernalia that you ever saw before you had your first cigarette at age 13?
A. Candy cigarettes.
Q. Anything else?
A. Paraphernalia. I -- I don't -- you know, grandma's lighters, you know, aunts' and uncles' lighters and their cigarettes.
Q. Paraphernalia that came from, or might have come from a tobacco company.
A. Oh, I don't know. I don't know that.
Q. You don't know of any?
A. No.
Q. When -- and I don't expect you to have an exact date, but your best estimate would be helpful -- did you or your husband first attempt to acquire any cigarette or smoking paraphernalia, such as the kind here in Exhibit 6?
A. It was in the '80s. I -- I'm assuming. It was whenever they came out with the Camel cash.
Q. It was about contemporaneous, meaning the same time as that?
A. Yes. Around in that time period, obviously, because that's what they ordered.
Q. Do any of the words -- I'm sorry. Let me start over.

00247

Did any of the words that you ever saw on any of this paraphernalia before you were diagnosed with cancer, make you think that the words were stating that cigarettes did not contain any health risk to people who smoked?
A. They were products that we were ordering. I don't know what that has to do with telling me anything about cigarettes.
Q. Okay. So --
A. We were getting merchandise.
Q. So the answer to my question, then, would be what?
A. Ask it again so I can -- I --
Q. Before you were diagnosed with cancer, did you believe that any of the words contained on any of this paraphernalia we've talked about on Exhibit 6, stated that cigarettes did not have a health risk to people who smoked?
A. No. I -- I don't believe anything on here tells me that cigarettes would harm me.
Q. Did anything on here tell you that cigarettes wouldn't harm you?
A. Nothing on here tells me cigarettes would or wouldn't harm me. They are items.
Q. Now, certainly some of these items you think would

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have, and did think had more appeal to one sex over another, correct?
A. I don't know. I guess it -- depending on whether

00248

you are buying a male shirt or a pink night shirt, yes, I would say so.
Q. Exactly.
A. But men do wear pink.
MS. CHABER: And you wore all his shirts.
THE WITNESS: Yes. And I did wear the men's shirts. Leonard didn't ...
MR. BARRON: Q. Did any of those have particular special appeal to people of a social background compared with others, in your mind?
A. What do you mean, any of these? Like --
Q. Exhibit 6.
A. Pictures on t-shirts, some people like motorcycles, yes. Some people like to shoot pool. I'm not into that, but, yes, I would say so.
Q. But people who rode motorcycles come from all sorts of different social backgrounds, as do people who shoot pool?
A. Yeah. I'm talking hobbies.
Q. I'm trying to figure out -- pardon?
A. Hobbies.
Q. Sure. The paraphernalia would appeal, in some instances, to people with particular interests?
A. Yes.
Q. But my question is: Did you believe at the time

00249

that any of the paraphernalia seemed to appeal to people with a certain social background?
A. Social background, no.
Q. Okay. Or people with a certain economic background?
A. No.
Q. Or people of a certain race or ethnic background?
A. No, not that -- I don't know what that has to do with anything.
Q. Or people of a certain age.
A. No.
Q. Would you please try to find, with the help of your lawyer there, Ms. Chaber, if you'd like, Exhibit 5-A through OO.
What I'd like to do, if, it's all right with you and your lawyer, is approach it the same way as I did with Exhibit 4, and to some extent Exhibit 6, deal with these as a group. And what I'd like to --
MS. CHABER: I might have an objection. This is a much larger group, and I think we have to see, as the questions go along, whether it really can be done in this broad fashion.
MR. BARRON: Oh, sure.
Q. Like always, if it didn't seem to you that you could do them as a group in answering my questions because

00250

it got too confusing or you needed to segregate somehow or select them --
A. I will let you know if you confuse me.
Q. Yeah. Thank you.
And let's just see, because I don't know whether we can do it or not. Let's just try, can we?
So first of all, from where did these come?

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A. Out of a book.
Q. Which book was that?
A. I believe a book that the -- one of the tobacco companies did up.
Q. Okay.
A. You guys.
Q. What makes you believe that?
A. I was told this. It said in the front of the book.
Q. Okay. What did it say on the front of the book?
MS. CHABER: Hand me the book. Lets not make her guess.
THE WITNESS: Thank you.
MS. CHABER: For Counsel's information, it came from a book entitled "a Camel named Joe. The illustrated story of an American pop icon," by David DeSmith. And I think this is --
THE WITNESS: Yes.

00251

MS. CHABER: -- what you were --
THE WITNESS: It said R. J. Reynolds Tobacco Company.
MS. CHABER: 1998, as the producer of the book.
MR. BARRON: Thank you.
THE WITNESS: You didn't know that?
MR. BARRON: Q. Well, I'm not supposed to.
MS. CHABER: He's Philip Morris, so give him a break.
MR. BARRON: Well, I'm not supposed to answer questions, but I want to answer yours if I can. I didn't know that, I haven't seen that book, R J. Reynolds is not my client, Philip Morris is, they make Camels and we make Marlboro and --
A. Well, you are asking me about Camels now.
Q. Well, because it may relate, to some extent, to the issues that I need to consider for my client, too, so that's --
A. Okay.
Q. -- why I'm doing it.
A. Because I got a little confused there.
Q. Well, don't worry about so much why I might do something. It's kind of hard to figure that out at times, and sometimes maybe I don't even know.
A. Well, I just --

00252

Q. Try to worry about the question; and if it makes sense, and then try to give your best answer, and then I think maybe that would also help so one doesn't get confused. Okay?
A. Okay.
Q. All right.
A. That's why I asked.
MR. BARRON: I'll tell you what, I need to, with your counsel's permission, look at something and sign something quickly. We have been going for awhile. Why don't we take a break, you know, kind of -- what I am going to do here, I am going to ask you to take a look at this and give me some ideas about what you thought at the time when you saw these, and so can we take a few minutes.
MS. CHABER: Do you want to continue at 4? It's about a quarter of, is what I have on my watch.
JUSTICE DOSSE: That's okay with me.
MS. CHABER: Does that give you enough time?

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MR. BARRON: That's fine. I've got twenty of, but that's fine. I don't mind taking 20 minutes. That's fine. We can take as much, as little --

MS. CHABER: I have been setting my watch ahead to try to fool myself to being on time to places.

VIDEO OPERATOR: Going off the record. The time is 3:40.

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(Recess taken from 3:40 to 4:04.)

VIDEO OPERATOR: We are back on the record. The time is 4:04.

MR. BARRON: Q. Hello again. Are you okay to proceed?

A. Yes.

Q. Okay. And you will, as always, let me know if you are having difficulties, and we'll just stop for another break or we'll recess for the day.

A. Okey-dokey.

Q. Thank you.

What I'd like to do, as we talked about before we took the break, is have you, to the extent you can, answer some questions relating to this group of material that is Exhibit 5-A through double zero -- or double O, I mean.

A. Okay.

Q. Now, we established before the recess that those came from a book, that your attorney then described on the record for us.

Did you try to look through the book and select from the book, things that you thought you had seen in the past before the time you were diagnosed with lung cancer?

A. Not in particular before, just that looked familiar.

Q. Okay. So are you then holding open the

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possibility that some of these things in Exhibit 5-A through 5-OO, were things that you did not see for the first time until after you were diagnosed with lung cancer?

A. Oh, no. I -- I mean, I could have some I don't know -- what I am saying is, I picked out pictures that looked familiar to me, not -- they didn't give me a time period to ask --

Q. Okay.

A. -- when I picked them out.

Q. Let's talk about the time period then. First of all, can you identify any that you know that you saw before you first tried smoking when you were 13 years old and tried that with the girl friend that you mentioned?

A. Joe Camel wasn't around then.

Q. So none of these that are in 5-A through 5-OO were things that you saw before you first started smoking, is that correct?

A. Not of Joe Camel, no.

Q. Do you have in mind when Joe Camel first came on the scene?

A. I believe it was in the early '90s late -- '80s, early '90s, somewhere in that time period when I -- I was -- yes. About that time.

Q. Okay. Can you identify the one of those that you saw before all others for the first time?

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A. Not honestly say that's the first one I saw, no. I can't give you an order, that would be a -- like I said, it would take a person with a really good memory to say I

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saw this, this, this, in a certain order.
Q. Do you know of any one of those in Exhibit 5 that, you know, you saw before any others? In other words, can you order any of them to any extent?
A. No, not -- not honestly say so.
Q. Are there any in this exhibit that have words on them, that when you saw and read the words for the first time, could not understand?
A. Most likely. Like carbon monoxide. What's that?
Q. When you first saw that and read that --
A. I just -- I see it now.
Q. But when you say "what's carbon monoxide," do you mean literally that you have no idea if it's like an animal, a vegetable, a mineral or a piece of equipment, or do you just mean you don't know chemically precisely what it is?
A. Chemically precisely what it is.
Q. Okay.
A. I --
Q. Do you know that it is something that is generally thought to be not good for people?
A. I don't know what it is. It's -- I -- I think of

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a car.
Q. And carbon monoxide poisoning?
A. Yes.
Q. Meaning that if you breathe too much of it, you can die from it?
A. I guess.
MS. CHABER: Don't guess. He's not asking you to guess or speculate.
MR. BARRON: Q. No, I don't want you to guess, but I --
A. I don't know.
Q. Golly, I'm trying to find out, I kind of think that maybe, and maybe not, that you have heard of carbon monoxide poisoning from cars where --
A. From --
Q. -- where if you breathe enough carbon monoxide people can become unconscious and even on occasions die.
Is this the first time you've ever heard that, me saying that to you now?
A. No.
Q. Okay. So -- and you've known that for a number of years?
A. I don't know about the number of years, but I know that people have committed suicide or died from being in a car locked in a garage that was running.

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Q. And you knew of such things before you were first diagnosed with cancer just recently, isn't that true?
A. Not associated with cigarettes.
Q. No, no. Just carbon monoxide, what we just established that --
A. In a car? Yes. In a car. I don't breathe those fumes, at least I don't think I do.
Q. Did you ever see a warning anywhere -- not just on a Joe Camel product or advertisement or billboard, or whatever, but anywhere, a warning like this here, quote, Surgeon General's warning, quote, Surgeon General's Warning: Cigarette Smoke Contains Carbon Monoxide, close quote, before you were first diagnosed with cancer?
A. I -- I couldn't tell you specifically if I read

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one exactly that said that.
Q. Would you agree that there certainly was a time before you were first diagnosed with cancer that had you seen such a warning, you were old enough and had enough understanding to realize that it looked as if somebody was trying to tell you that there was a risk of carbon monoxide associated with what was going on here in the product, and that the risk wasn't good for someone?
MS. CHABER: Compound, vague, ambiguous.
JUSTICE DOSSE: Sustained.
MS. CHABER: That means you don't answer.

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THE WITNESS: Okay.
MR. BARRON: Q. Before you were diagnosed with lung cancer recently, had you ever seen this warning anywhere?
A. This particular one, I couldn't honestly say.
Q. Do you have an opinion about, if you had seen such a warning anywhere before you were diagnosed with lung cancer, you would have at least understood that it was a warning trying to tell somebody about a chemical that could cause harm, under certain circumstances, to people?
A. Whether I understood, I don't think so.
Q. You wouldn't understand that?
A. No.
Q. What would you -- would you -- do you have an opinion as to what you would have understood the purpose of something being described as a warning would be, and then going on to indicate it had something to do with this chemical, carbon monoxide?
A. My opinion is those -- this was put here by the government, not the tobacco companies. It was a forced thing, that I -- I paid no attention to them. I -- I didn't believe them if I read them. I didn't think they applied at all.
Q. Do you have an opinion, had you seen this specific warning anywhere before you were diagnosed with cancer, and

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even some that you would have thought, had you seen it, that it came from the government, what the government was at least attempting to do in terms of the warning?
In other words, would you -- do you have an opinion as to whether you would have believed, at least, that the government was trying to tell people about the fact that there was this chemical, carbon monoxide, contained in smoke and that it was important for them to be warned about that because it might effect their health?
MS. CHABER: Objection. Compound.
JUSTICE DOSSE: Yes. It's compound.
MS. CHABER: Was that -- was that sustained?
JUSTICE DOSSE: Sustained. Right.
MS. CHABER: Yes.
JUSTICE DOSSE: It can be rephrased.
MR. BARRON: Q. Had you seen this warning before you were diagnosed with lung cancer, even if you assumed it came from the Surgeon General or from the government, rather than the tobacco companies, do you have an opinion as to whether you would have understood that at least the government or the Surgeon General were taking the position that the smoke contained something that wasn't good for people, that posed a risk for people?
A. I didn't believe them.
Q. No. Whether you believed them or not, do you have

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an opinion as to whether you would at least have understood, had you read such a warning, that that's what the governments position was?
A. No, I wouldn't have understood. I think -- I didn't believe them. The -- the warning, I did not -- this is a government thing.
Q. Is it -- has it been your position that you have never believed the government on any issue in the past?
A. That -- I -- I don't know what you mean by that.
I think the government made the warnings be put there. I -- I don't know. They don't make the cigarettes, you guys do.
Q. Again, whether you believed the government or not, or thought the government was correct or not, do you have an opinion as to whether, had you read this warning before you were diagnosed with lung cancer, you would have at least understood that the government was saying that it thought that smoke contained something that the government thought was harmful to people's health?
A. No, because they wouldn't let you produce it, would they? If it was that bad, why would they allow it to be on the market for people to consume?
Q. Has it been your opinion always, until you were diagnosed with lung cancer, that the government has never allowed anything to be produced that had a potential to
00261
cause some harm?
A. I have no idea what the government does in their time.
Q. Okay. We'll get back to that more a little l later, but what I'd like to do is to go back to what we were specifically talking about earlier, which was this whole group of things contained in Exhibit 5-A through 5-OO.
Are there any things in here that you believe had more potential to appeal to one sex over on the other?
A. Of course, in -- in some of the ads, like the girl in the scuba -- I mean -- for males.
Q. Okay. That's number what?
A. 5-B.
Q. Okay.
A. And right here, these guys look -- they are all guys doing guy stuff, playing cards and drinking.
Q. Would you mind, because I can't see what you are looking at --
A. Oh I'm sorry. 5-A.
Q. Okay. Thank you.
As you find one that you think that has more appeal to one sex over another, would you again just indicate the number?
A. Yes. 5-G.
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Q. And to which sex does that have more appeal?
A. Men.
Q. And it's a shot of pool players?
A. Yes.
Q. Okay. Next?
A. 5-N, that's a guy shooting pool.
5-P tells me this guy's tough, he can bust through a wall, so that's a guy thing.
And 55, that's racing motorcycle.
Q. It's probably something other than "55." Maybe Ms.

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Chaber can help you there.
A. 5-S. Excuse me.
Q. That's all right.
And then, I'm sorry, was that a guy thing, you said?
A. Yes.
Q. All right.
A. 5-T. female, because salt and pepper shakers, I don't know, kitchen stuff.
Q. Is that true even though the salt and pepper shakers have Joe Camel dressed up in obviously male clothes?
A. I just thought of the kitchen table and -- and that that's where I spend my time in me being a homemaker. I have no idea what somebody else would think. You are

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asking my opinion.
Q. No. I am -- I just wanted to try to make sure that that was your opinion.
A. 5-JJ looks like a guy thing, as well as 5-KK, because it's all guys on motorcycles. And 5-LL, a guy thing. And 5-MM.
Q. You started smoking, and smoked then regularly for a number of years before Joe Camel and any Joe Camel campaign came along, is that true?
A. Yes.
Q. And you actually also smoked Camels, along with Marlboros for a period of time, and then went to Camels exclusive low and stayed with Camels thereafter?
A. Yes.
Q. And you had actually become a solely Camel smoker, and had stayed with Camels for a number of years before Joe Camel came along, correct?
A. When Camel Lights came out was when I smoked Camels.
Q. So is what I --
A. That is when I think they came out. It was that time period that I switched to Camels.
Q. Well -- okay. I'm -- now, I'm a little confused, because I -- I thought we asked you earlier for your estimate as to when you remember the Joe Camel person -- or

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character coming on the scene, and I thought you gave an estimate of the late '80s or early '90s.
A. For -- because that's when I remember smoking Camel Lights.
Q. Okay.
A. That's when I started smoking exclusively Camels, was when Camel Lights came out.
Q. What year do you have in mind, if you have one, for when you made the decision to begin to smoke Camels exclusively?
A. What year? I -- I was -- I believe I was married to Wesley Imhoff, so I don't know what year it was. Whenever Camel Lights -- they were available at that time that I had been around him. I don't know what year it was.
Q. Well, we'll maybe go back to that.
I have some Answers to Interrogatories, written questions that talk about the time when certain cigarette brands were smoked by you, and that might help us tie down the dates, but I'm not going to go to try and pull that out right at this moment.
Are we reasonably confident, you and I, that you

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began to smoke Camels for the first time before Joe Camel came on the scene?
A. Yes, I smoked them in high school.
Q. And you had smoked them for a number of years,

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Camels of some kind, before Joe Camel came on the scene, correct?
A. I don't know number of years, but I smoked both Marlboro and Camels, high school on, until I switched to the Camel Lights.
Q. Is there anything in this Exhibit 5-A through 5-OO, that you thought at the time, whenever it was that you first saw it, had a tendency to appeal to people of a certain age over others, or an age group as opposed to another age group?
A. Well, that's obvious with a lot of these. I think they appeal to everybody, actually.
Q. In other words, not to one age or age group as opposed to another?
A. All ages.
Q. Okay.
A. Because -- I mean, they made the guys cute. So -- I mean, I'm ...
Q. Are there any here in Exhibit 5-A through 5-OO that you thought at the time, when you first saw them or at any time thereafter until you were diagnosed with lung cancer, tended to appeal to people of a certain social background compared to people of a different social background?
A. I believe so, in my opinion, because there are

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pool players. This guy looks kind of high class. There are the bikers, the -- this guy looks like he would be of a higher class than, say, somebody who rode a motorcycle. And these guys look like your nightlife blues guys, so yes.
Q. So is it your view that, as you look at these as a group, and as you saw them in the past, some of them would tend to appeal to particular social groups or people with certain social background, but that there were enough of them that it seemed to try to capture a lot of different social backgrounds?
A. I suppose. I'm just one person with an opinion on it.
Q. Well, your opinion is the one that is important to me now --
A. Yes.
Q. -- and the one that I am asking about. Okay.
A. For advertising, I think they covered just about everybody.
Q. And therefore, covered people with a variety of economic backgrounds?
A. Yes.
Q. And are there any here, that when you saw them at the time, up until the time you were diagnosed with lung cancer, seemed to have special appeal to people of a particular race or ethnic background?

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A. I can't say what ethnic background had certain hobbies. I didn't -- that's not something that I thought about.
Q. Okay. By the way, we've talked a lot today about things that you looked at before your deposition, and things from which you selected items that you thought you

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had seen in the past or advertisements you thought you had seen in the past.

Have you looked at, in the same way, any other documents or things to help prepare you or help present your deposition testimony?

MS. CHABER: What -- I'm just going to object to the preface and the assumption, Counsel, that these were looked at in preparation for deposition. I don't think you established that, and I think there's some attorney-client privilege problems with your overbroad statement, so ...

JUSTICE DOSSE: The objection is sustained.

MR. BARRON: Would you like me to rephrase it?

JUSTICE DOSSE: You can rephrase it.

MR. BARRON: Sure.

Q. Are there any other documents, or any of the things that you have looked at recently, that you thought had, as a purpose, things for you to look at to help prepare you for your deposition or to give testimony that they memorialized?

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A. I saw how to prepare for a deposition video.

Q. Anything else?

A. For a deposition?

Q. Yes.

A. That was it. They gave me a pamphlet to read, but I didn't read it. I have not read it yet. It's 62 questions, or something.

MS. CHABER: Again, I would object. We are getting into attorney-client --

MR. BARRON: Q. The video concerning a deposition, can you tell me what that was about?

MS. CHABER: No. I am going to object. It's attorney-client privilege.

JUSTICE DOSSE: Do you want to respond to that? Do you want to respond to that?

MR. BARRON: Q. Well, was it your attorney that was on the video describing what a deposition was about, or what you were supposed to do, or how you were supposed to conduct yourself in a deposition?

A. No.

MS. CHABER: Yeah --

THE WITNESS: On the video? You weren't on it.

MS. CHABER: Not me personally.

THE WITNESS: He just asked me, was it my attorney, isn't what you asked me?

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MR. BARRON: Q. Yes.

A. No. She wasn't on the video.

MS. CHABER: Not me personally.

I would object to questions that go into the contents of a video that was prepared by a law firm for the purposes of attorney-client information being transmitted, in the same way I would object if I had personally sat in there and said all these same things to her. It was prepared precisely as part of attorney-client activities.

MR. SCARVIE: Give us two minutes.

MR. BARRON: Can we take two minutes? There's a document I am supposed to sign.

MS. CHABER: Yeah. Sure. Let's go off the record.

VIDEO OPERATOR: Going off the record. The time is 4:33.

(Discussion off the Record.)

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JUSTICE DOSSE: I wasn't sure if the representation was made with regard to the video and who prepared it. Is it prepared by this law firm, your law firm?
MS. CHABER: Prepared by this law firm?
MR. SCARVIE: Go ahead. Sorry.
VIDEO OPERATOR: Back on the record. The time is 4:35.

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JUSTICE DOSSE: Were we on the record when I was asked that question and it answer answered?
THE REPORTER: We were.
MR. BARRON: We were. I'm sorry, were we on the record when we did that?
JUSTICE DOSSE: Is there anything further on that?
MR. BARRON: No.
JUSTICE DOSSE: I'm sorry. Go ahead.
MR. BARRON: I'm sorry. Go ahead.
JUSTICE DOSSE: I am going to sustain the objection, then.
MR. BARRON: Let's go to a different topic, if we can.
Q. I'd like to take you back in time. You were born in 1959?
A. Yes.
Q. And when you were born, your parents lived in Ventura?
A. Yes.
Q. Lived in a house to which you were taken as a new born and which you lived in for a number of years, correct?
A. Yes.
Q. And, in fact, you lived in that house until what grade in school?
A. Ninth grade.

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Q. And is it ninth grade under the Ventura school system that one starts high school?
A. No. Tenth, at that time. I don't know what they do now.
Q. I see. Okay. So was junior high then seventh, eighth and ninth, under the Ventura County system?
A. Yes.
Q. So were you still living in the original home in Ventura at the time you completed junior high?
A. Yes.
Q. But by the time you started high school in the tenth grade, you had moved to [DELETED]?
A. Yes, we moved that summer.
Q. And then can you be as specific as you can about when it was that you had your first cigarette, the one at age 13, you thought, with your girl friend?
A. Specifically? No, I couldn't tell you exactly when it was.
Q. Can you tell me whether it was while you were still living in the original home in Ventura, or while you were then living in the new home in [DELETED]?
A. Oh, I lived in Ventura.
Q. When you had the first cigarette?
A. Yes.
Q. And when you had the first cigarette, you were

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still a junior high school kid then?
A. Yes.

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Q. Was it during the school year that you had the first cigarette?
A. I don't remember.
Q. As opposed to the summer?
A. I don't remember.
Q. Do you remember what grade you were in when you had your first cigarette with this girl friend?
A. I believe it was in the seventh grade.
Q. Now, if I'm right, because I looked became on the dates, you were in the seventh grade starting in -- correction -- ending in 1972, is that right?
A. I don't --
Q. Don't remember? That's okay.
A. I'm not sure exactly when I was in -- what year I was in the seventh grade.
Q. Now, by this time, when you had your first cigarette, both your parents had already quit whatever smoking they had done, is that right?
A. Yes.
Q. You mentioned that, I think it was your father who quit in some relationship to a younger brother. Did I --
A. No. My mother.
Q. Oh, your mother?

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A. That's just what she told me.
Q. And who was that, which younger brother?
A. David. I only have one younger brother.
Q. And how much younger is David than you?
A. Four years.
Q. You have some recollection of your father's cigarettes on top of a refrigerator, is that right?
A. Yes. Just one memory of a pack sitting up there.
Q. But no recollection of him actually ever smoking, is that correct?
A. No, not vividly. I couldn't honestly say that I sat and watched him smoke a cigarette and remember it vividly.
Q. And no recollection of seeing your mother actually smoke, is that correct?
A. Right, that is correct.
Q. What is your understanding about when your sister, Becky, started to smoke?
A. What do you mean, understanding?
Q. Knowledge, belief.
A. She was an older teenager. She was almost 17 or 18 years old, I believe, at that time. I don't --
Q. And when she --
A. It's not -- you know, I don't remember. It was just a -- specifically when I knew she smoked. I don't --

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I couldn't tell you, that was a -- a guess. I couldn't specifically tell you when I knew she smoked cigarettes, she would have to tell that you.

MS. CHABER: Don't invite them. We have enough depos.

MR. BARRON: Q. By the time that you had tried your first cigarette with your girlfriend at about age 18, who else in your household had ever smoked in your presence, other than your vague recollection of your father having cigarettes on the refrigerator?
A. What -- whether -- when I was 18 years old? Who do I --
Q. No. I'm sorry.

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A. -- remember smoking around, me is --
Q. No. 13 when --
A. You said "18."
Q. I misspoke, then. I apologize.
A. I'm listening.
Q. Good. I want you to.
Let me try it this way. From the time that you were taken back to your home in Ventura, having just been born, to the time that you had your first cigarette with your girlfriend when you were 13 and in junior high school, what family members, to your knowledge, ever smoked in the household?

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A. To my knowledge, I was only told my mother and father smoked.
Q. And so you were the first child that they had, to your knowledge, whoever started smoking?
A. I have no idea if I was the first who ever smoked. I don't have any knowledge of any of my brothers or sisters smoking in -- in the time period you are talking about.
Q. And your sister Becky eventually smoked, correct?
A. Yes.
Q. And then you had a brother who also smoked somewhat, because he was an offshore oil fellow?
A. Yeah. It was -- yes. Just because he wanted a break. That's all I know of his smoking. He is not a smoker.
Q. Now, in mentioning -- in answering your attorney's questions, the things that influenced you to start smoking, you mentioned candy cigarettes.
A. Yes.
Q. You mentioned gum cigarettes.
A. Yes.
Q. You mentioned advertisements on television.
A. Yes.
Q. You mentioned billboards.
A. Yes.
Q. Are there any particular billboards that you think

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you remember that you believe were one of the things that influenced you to start smoking when you first did at age 13?
A. Particular? No.
Q. And by that, I mean not just exactly what the billboard looked like, but any particular billboard ad, for example, a brand of cigarettes, a theme of cigarette smoking, anything like that at all?
A. A theme? I -- I always recall on cigarette billboards, healthy tanned women with big white smiles, I remember seeing them.
Q. Have you completed your answer?
A. And the Marlboro guys.
Q. Are you trying to indicate that billboards with the Marlboro guys were one of the things that influenced you as a 13-year old girl to start smoking?
A. Oh, no. I was saying I just remembered them as the -- you know, on billboards.
Q. Right. No. I am not trying to just test your recollection of all the billboards you ever remember seeing before you were 13.
I am trying to identify with you, if you think you can, any that you thought influenced you to start smoking.
A. I have -- I -- I couldn't honestly say that that

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influenced me to smoke. I -- it may have.

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Q. You also mentioned, in giving some answers to your attorney's questions, that a reason that you started smoking for the first time was that it was, you thought, something that kids do as a rite of passage.

A. Well, yeah, something to be grown up about.

Q. And actually, you then, when your lawyer asked you what you meant, said that by that, you meant a curiosity to try to see what it was like?

A. Of course, I had never smoked.

Q. Because you had seen adults smoke?

A. Yes.

Q. And so that was a curiosity for you?

A. I -- I suppose so.

Q. Now, did you ever -- before you tried smoking at age 13, ever ask adults what it was like, so that some of your curiosity could be answered?

A. Not that I know of.

Q. Did you ask your parents what it was like?

A. No.

Q. Did you ask any friends?

A. No.

Q. Did you ever hear anybody tell you what it was like?

A. I don't know.

Q. Well, I want you to try to think back; and if you

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have no memory at all, then I want you to tell me that. But here we are, you are a 13-year old girl --

A. Yes.

Q. -- you've been living in a house in which neither parent has been smoking for years, you have only a vague memory, at best, of your father, and maybe some cigarettes up on the refrigerator.

A. Yes.

Q. You know that they both quit. You have no brothers or sisters at home --

MS. CHABER: Did she know that then? I would object. Misstates it, that --

MR. BARRON: I thought she testified to that. Do you want me to establish that --

MS. CHABER: That she knew at that particular point in time that they --

MR. BARRON: Q. Yes. You knew when you were 13 that your parents were no longer smoking, didn't you?

A. Yes, I knew at 13 they didn't smoke.

Q. Right. So they had quit, right?

A. Right.

Q. So here you are, you are 13 years old, you are living at home, your parents have not been smoking for years, they both quit, nobody else in the house has been smoking, you've got no brothers or sisters smoking. You

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say you've got this curiosity, there's sort of this feeling of a rite of passage to try to find out why adults smoke.

A. Not find out why adults -- those -- I mean -- what -- what -- what --

Q. Well, what did you mean when you said that -- in answer to your lawyer's questions, you said a curiosity to try to see what it was like?

A. To smoke a cigarette itself. Not what an adult thought. Those are -- that was your words.

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Q. Because you had seen adults smoke?
A. I've seen people smoke, of course I had.
Q. Okay. Well, anyway, let's go back and try to figure out what your thinking was and why you thought what you did, if we could.
As I said, here you are, you are 13 years old.
A. Yes.
Q. No parent in the house has been smoking for years, you know, they have both quit, you have no brothers or sisters who are smoking, you know that you've seen other adults smoking and you had this curiosity.
A. Because the teenagers were smoking, also, that I was around. There's a lot of peer pressure. It's not just my own curiosity. There's -- being a teenager is very difficult as it is, and when you want to fit in, that's part of it, also. That wasn't just, you know, one reason,

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because I was just curious. There was the whole teenage experience of being in junior high school, and the other kids who did smoke and wanting to fit in. That's not just -- that was just one reason stated.
Q. Okay. Are there any other reasons that you now have you think to offer as to why it was you did begin to smoke?
A. Didn't I just say so?
Q. Any others? We now have to fit in because of the peer pressure.
A. I -- I don't know what else you want me to say.
Q. Now, when you were 13, did you have trust in any adults that you thought you had access to who you could go to and ask questions if you had a curiosity about why adults smoked or what smoking was like?
A. That wasn't something you asked -- I mean, I didn't think about asking an adult.
Q. But did you have adults whom you trusted?
A. I trusted my parents, but I -- that's not a question I -- I don't know. A 13-year old is a no-brainer. They -- what can I say?
I don't know what I was thinking at that time about asking my mother about what it's like to smoke. That's -- teenagers don't ask their parents that, they ask their friends that. They ask somebody who is smoking that.

00281

My mother wasn't smoking.
Q. Did you ask any of your friends what it was like to smoke, as you just suggested?
A. I don't remember what I asked my friends when I was 13 years old.
Q. Had you heard anybody talk about the fact that they had tried smoking and didn't like it?
A. Not that I remember.
Q. Did you hear anybody ever talk about what they thought it was like to smoke, like your friends, or people who --
A. They were smoking so -- I mean, I had -- I don't remember particular conversations. You are asking for me to recall something when I was 13, and I -- I can't answer that.
Q. As you think about it now, do you believe that it was the peer pressure that was the primary reason why you tried smoking for the first time?
A. I think that probably had something to do with it, yes.

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Q. When you were asked by your girlfriend to share the cigarette, you didn't reflect back on the pleasantries of seeing candy cigarettes or something like that, did you?
A. I -- I don't know -- I cannot honestly say what kind of pretraining that gave me mentally, as in marketing.

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I'm not qualified to give you that kind of answer.
Q. Now, when you were 13, you knew about the fact that alcohol was considered to potentially cause some harm if consumed in certain ways or in certain amounts, is that right?
A. Not that I remember.
Q. You didn't --
A. No.
Q. -- think that about alcohol, either?
A. No.
Q. Did you have any understanding, when you were 13, that there were any things that kids could consume that might pose a risk to their health if they did so?
A. I don't know.
Q. For example, controlled substances, drugs?
A. I --
MS. CHABER: Vague and ambiguous.
JUSTICE DOSSE: Overruled.
You can answer the question.
THE WITNESS: I don't know.
MR. BARRON: Q. You don't know what?
A. I don't know -- at the time period you are talking about I wasn't into drugs, so I didn't -- I don't know.
Q. You don't know whether, when you were 13 --
A. I --

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Q. -- you had an understanding that drugs, if they were taken by youngsters, might pose a health risk to them --
A. No.
Q. -- if those drugs were controlled substances or illegal?
A. Nobody talked about drugs to me when I was 13.
Q. Including nobody at school?
A. No.
Q. Including the teachers?
A. Not that I recall.
Q. No educational material at all provided to you at the schools about that danger or risk?
A. Not that I remember, no.
Q. Hadn't seen anything on television about the dangers or risks to kids of use of controlled or illegal substances or drugs?
A. "Dragnet."
Q. Anything else?
A. Not that I remember, sir, no.
Q. Before you tried smoking for the first time when you were age 13, had you seen on television some things that suggested that cigarette smoking was a risk, or associated with health problems to people, including serious disease or death?

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A. No. I -- I don't recall anybody ever talking anything about cigarettes.
Q. Now, you now know what the American Cancer Society is?
A. Now I do.

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Q. And you know that there are other organizations who try to take positions on smoking and whether it has dangerous health effects for people, and who actually try to publicize their position, isn't that right?
A. Now I do.
Q. And you've seen various kinds of things like that on television, haven't you?
A. I don't know what you -- when?
Q. Television time devoted to the subject of health risks to people from smoking, that is --
A. But when?
MS. CHABER: Vague as to time.
MR. BARRON: Q. Any time --
MS. CHABER: Is what I think what he is asking.
THE WITNESS: Well, any time? Yes, recently.
MR. BARRON: Q. When is the first time in your whole life that you ever saw such a thing on television, where there was some time devoted to trying to let people know that, whoever was the one responsible for that television time, thought that smoking posed a danger or

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risk to people and their health?
A. That I actually watched and paid attention to since I've been diagnosed?
Q. How long after you were diagnosed do you believe it was for the first time that you saw such time devoted on television to that subject?
A. On television? I -- I couldn't say. It -- it -- you would hear -- because me having cancer, and I would hear on the news of a new cancer treatment or something, I would pay attention to it as -- you are asking for a specific content of something I seen. I can't tell you of a certain show I watched.
Q. No. I am not asking that. I am not asking for a certain show. I am not asking for exact precise content.
I am saying television time devoted, such as purchased by the American Cancer Society, or purchased by others or donated by the television companies.
Ads commanded by the government, where the purpose at the time, you understood, was to alert people, or to let people know that the people who were doing this with the television time thought that smoking posed a health risk or danger to people who smoked.
A. Only recently since being diagnosed, I've noticed that the ads on TV for antismoking, because of all the -- the -- the tax money they have been collecting to put the

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ads on TV, that's what I've been noticing.
Q. So before that, you never saw or noticed such a thing on television?
A. Not that I can honestly say that I recall watching.
Q. Okay. Let's talk about things in print before you were diagnosed with cancer.
MS. CHABER: You've got two minutes left on the tape.
MR. BARRON: You have two minutes. Do you want to have a break? That's fine.
MS. CHABER: The tape --
MR. BARRON: Sure.
MS. CHABER: That's your problem.
MR. BARRON: No. I understand. That makes sense. And let's take a break and have him do the tape, and then

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do you want to talk to --
MS. CHABER: Yeah. I'll talk --
MR. BARRON: -- your client and see how she is doing?
MS. CHABER: See what we do, go on tonight or start up tomorrow morning.
VIDEO OPERATOR: This is the end of tape 2, volume 2, in the deposition of Leslie Whiteley. Going off the record. The time is 5:02.

(Whereupon the deposition was adjourned at 5:02 p.m.)

_____ _____
DATE LESLIE WHITELEY

IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA
IN AND FOR THE COUNTY OF SAN FRANCISCO
---oOo---

LESLIE WHITELEY AND LEONARD WHITELEY,
Plaintiffs,
vs. NO. 303184
RAYBESTOS-MANHATTAN, et al.,
Defendants.
_____/
Volume 3 Pages 289 to 533

VIDEOTAPED DEPOSITION OF
LESLIE WHITELEY
==========
THURSDAY, SEPTEMBER 16, 1999

REPORTED BY: MARJORIE FORMAN, CSR #2783
Tooker & Antz
Court Reporting & Video Services
818 Mission Street, Fifth Floor
San Francisco, California 94103
415-392-0650 Fax 415-512-9543

I N D E X

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MS. SINGAL:	525
MS. CHABER:	527

E X H I B I T S

DEFENDANTS' DESCRIPTION	PAGE
FOR IDENTIFICATION	
B Photocopy of the over of a book entitled "a camel names joe," and the publication page.	297

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BE IT REMEMBERED that on Thursday, September 16, 1999, at the hour of 9:48: a.m., at the Law Offices of Wartnick, Chaber, Harowitz, Smith & Tigerman, 101 California Street, Suite 2200, San Francisco, California 94111, before me, Marjorie Forman, duly authorized to administer oaths pursuant to Section 2093(b) of the California Code of Civil Procedure, personally appeared,

LESLIE WHITELEY,

Called as a witness by the Plaintiffs, and the Witness, having been duly previously sworn, was examined and testified is as hereinafter set forth:

A P P E A R A N C E S

For the Plaintiffs:
Law Offices of Wartnick, Chaber, Harowitz, Smith & Tigerman
101 California Street, Suite 2200
San Francisco, California 94111
BY: MADELYN CHABER and ROBERT BROWN, Attorneys at Law

For the Defendants: Golden Gate Drywall, Inc.; D. W. Nicholson Corporation.
Burnham & Brown, 1901 Harrison Street
11th Floor
Oakland, California 94604
BY: PETER LAGASSE, Attorney at Law

For the Defendant: CCR Defendants named, served & Remaining in the Action.
Haight, Brown & Bonesteel
100 Bush Street, 27th Floor
San Francisco, California, 94104
BY: SANGEETA SINGAL, Attorney at Law

For the Defendant: Riley Stoker Corporation
McNamara, Houston, Dodge, McClure & Ney
1211 Newell Avenue, Suite 202
P.O. Box 5288
Walnut Creek, California 94596
BY: AMY K. KROLL. Attorney at Law

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For the Defendant: Westburne Supply.
Steefel, Levitt & Weiss
30th Floor, One Embarcadero Center
San Francisco, California 94111
BY: VLADISLAV LUSKIN, Attorney at Law

For the Defendant: Grinnell
Ropers, Majeski, Kohn & Bentley
333 Market Street, Suite 3150
San Francisco, California 94105
BY: ANDRIAN DRISCOLL, Attorney at Law

For the Defendants: Plant Insulation Company:

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Kaiser Cement Corporation; Kaiser Gypsum Company.
Jackson & Wallace
580 California Street, 15th Floor
San Francisco, California 94104
BY: JAGJIT KAUR, Attorney at Law
For the Defendants: Sugden Engineering; Martin Madsen; SB Decking.
Walsworth, Franklin, Bevins & McCall
550 Montgomery Street, 8th Floor
San Francisco, California 94111
BY: INGRID CAMPAGNE

For the Defendant: R. J. Reynolds Tobacco Company
Law Offices of Howard Rice Nemerovski Canady Falk & Rabkin
Three Embarcadero Center, Seventh Floor
San Francisco, California 94111
BY: THOMAS G. SCARVIE and MARC HABER, Attorneys at Law

For the Defendants: Bigelow-Liptak; A.P. Green; Harbison-Walker; W.A. Call; J.T. Thorpe, Inc.; Syd Carpenter Marine:
Law Offices of Prindle, Decker & Amaro
369 Pine Street, Suite 800
San Francisco, California 94104
BY: JAMES PRICHASON, Attorney at Law

For the Defendant: Pierce Enterprises Company, dba Pierce Enterprises.
Law Offices of Davidovitz & Bennett
Suite 750, One Embarcadero Center
San Francisco, California 94111
BY: JAMES PRICHASON, Attorney at Law
For the Defendant: Philip Morris.
Shook, Hardy & Bacon LLP

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One Market Street
Steuart Tower, Ninth Floor
San Francisco, California 94105
BY: GERALD V. BARRON, Attorney at Law and MORDECAI D. BOONE, Attorney at Law
Also Present:
JUSTICE ROBERT L. DOSSEE, Two Embarcadero Center, Suite 1100, San Francisco, California 94111

Tooker & Antz, Certified Court Reporters and Video Services
818 Mission Street, Fifth Floor
San Francisco, California
represented by DANIEL DeFRANK, VIDEOGRAPHER

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VIDEO OPERATOR: Ladies and gentlemen, we are on video record on September 16th, 1999. The time is 9:48. This is the beginning of tape 1 of volume 3 in the case of Leslie Whiteley versus Raybestos-Manhattan, et al., for the deposition of Leslie Whiteley.

All aspects as indicated on tape 1, volume 1 remain the same.

Counsel, you may proceed.

EXAMINATION BY MR. SCARVIE

MR. SCARVIE: Thank you.

Q. Good morning.

A. Good morning.

Q. My name is Tom Scarvie, and I represent Reynolds Tobacco Company. And the reason I am cutting in line here, is counsel for Philip Morris said, is because your lawyer has kindly allowed me to do this, because I have another commitment this afternoon.

I want to ask you some questions about -- mainly about the Camel ads that you -- you talked about yesterday, and then a few other things, but not a whole lot.

And Mr. Barron will be asking a lot of the same questions that I would ask you had I gone first, so you don't have to worry about either one of us, I think, repeating each other.

And again, the same admonitions are in place

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cautioning you to tell the truth. Okay?

A. (Nods head.)

Q. Yes? I want you to say "yes."

A. Yes.

Q. Okay. And if you don't understand something I say, please make me repeat it so that you do. Okay?

A. Yes, I will.

Q. Okay. Great.

First of all, do you -- do you know anyone, or have you ever spoken with anyone that you identify as being from my client, Reynolds Tobacco Company?

A. What -- what do you mean by that?

Q. Well, I mean, on the telephone, a call from you about a product, somebody calling you for some reason.

A. I -- I don't know.

Q. Okay. Is there anything that sticks in your mind about any conversation that you may have had with a Reynolds Tobacco Company employee?

A. No.

Q. Okay. Do you know as you sit there, what products you smoked were manufactured by the Reynolds Tobacco Company?

A. Camels.

Q. Okay. And do you know, are there any other products that you smoked, for however long a time, that you

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identify as being manufactured by the Reynolds Tobacco Company?

A. That's all I'm aware of.

Q. Okay. I'm going to ask you in a minute about another brand, but I do want to go quickly, if we can, to those Camel ads that you talked to us about yesterday.

A. Yes.

Q. Okay. And let me ask you a few questions about

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those and just to sort of establish where they came from and whatnot.

I know you talked about this some yesterday, but I believe what you said is that your attorneys gave you this book I got, that's called a Camel called Joe?

A. Yes, I looked at that.

Q. Okay. And it was out of this book that you picked certain things that you felt that you recognized, is that true?

A. Yes.

MR. SCARVIE: Okay. I want tomark this as Defendants' 1, but I don't want to put the whole book in. I just want to put it in for some kind of identification, B. And let me just -- I'll just read maybe the title page so we know what it is that we are talking about.

MS. CHABER: I guess I am confused. What do you mean, you are putting it in. You just want a face sheet?

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MR. SCARVIE: Yeah. Just a face sheet.

MS. CHABER: Just a photocopy of the face sheet?

MR. SCARVIE: Yeah. For now, that will be great, and I'll provide that to you at the appropriate time, but Defendants' B -- and for identification it's a book called "a Camel named Joe, an illustrated story of an American pop icon by David DeSmith, D-E cap S-M-I-T-H.

Q. And that's the book you looked at that I am showing you now, is that right?

A. Yes.

Q. Okay.

(Whereupon, Defendants' Exhibit No. B was marked for identification.)

MR. SCARVIE: Q. Okay. Did you make any effort, ma'am, to find ads that were -- that -- that were for Reynolds products other than looking in this book that your lawyers gave you called "a Camel called Joe"?

A. No.

Q. In other words, what I am wondering is, have you in the past, collected ads from magazines or from newspapers or videotapes of -- of television advertising?

A. I have not collected -- the only thing that I have kept is the mailers --

Q. Okay.

A. -- that come in the mail, and they have -- she's

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produced them, I believe.

Q. Okay. Whatever you've got, you've produced to us today, as far as mailers or advertising?

A. Except one, I think that came day before yesterday in the mail.

Q. Do you know who that was from?

A. I think Camel.

Q. Okay. And do you know -- do you know what the nature of it was or --

A. No. My husband does not open them.

Q. Just tosses them or keeps them?

A. No. He puts them aside.

Q. All right. So you have at least one other item at home now that is what you believe to be a mailer from Camel cigarettes?

A. Yes.

Q. Okay. And I would ask you, if you wouldn't mind, to give that to your attorney so that she can turn that over to us so --

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A. Yes.
Q. -- we can see what that is. Any problem with that?
A. No.
Q. All right. Great.
A. I have no need for it.

00299

Q. Okay. So -- so I'm clear on this, and the -- the items -- all of the items in the packet that's been marked as Plaintiffs' Exhibit 5 are, I guess reproductions of things that you picked out of the book, "a Camel called Joe," right?
A. Right.
Q. Okay. And I take it that you don't know whether any of those things were actually ads that you saw over the years for Camel, is that right?
A. They look familiar.
Q. Okay. But my point is, they could be things that you saw from some of the mailers, they could be things that you saw in some of the catalogs or -- or whatever, is that right?
A. Yeah. Yeah. Yes.
Q. All right. And is it true that the reason that we know that is because only a few of them have a warning on them, right?
A. I -- I don't know what --
Q. Do you know when the Federal government decreed that there be no more cigarette advertising in newspapers and magazines?
A. No I don't.
MS. CHABER: I suspect you weren't finished with your sentence, otherwise I am going to object that your

00300

question lacks foundation.
MR. SCARVIE: Okay. Well, I mean, if she knows she knows; but if she doesn't, she doesn't.
MS. CHABER: Well --
MR. SCARVIE: Let me just ask a direct question.
Q. Are you aware that in the -- in the early '70s, the -- there was no longer any cigarette advertising in books and magazines?
A. No.
Q. And similarly, are you aware that --
MS. CHABER: Again, I would object, that that assumes facts not in evidence and that lacks foundation, that there's no advertising in magazines after 1970.
MR. SCARVIE: Okay.
Q. Well, are you aware that at some point, ma'am, it -- it became -- the Federal government said that cigarette companies could no longer advertise in books and magazines?
A. No.
MS. CHABER: Again, lacks foundation, assumes facts not in evidence.
JUSTICE DOSSE: Sustained. As to the form of the question, I'd sustain.
MR. SCARVIE: Q. Are you aware, ma'am, that at some time the Federal government said that the cigarette

00301

companies could no longer advertise on radio and TVs?
A. On TV.
Q. Okay. And you are aware of that --
A. Well, because they quit showing cigarette ads.

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Q. Yes, ma'am. Do you know approximately when that was?
A. No.
Q. But in any event, what you've shown us in Exhibit 5 are things that you recognize, but you can't tell us that these are advertisements that you saw for Camel cigarettes. Is that a fair statement?
A. I recognize them. I thought through -- what came through the mail to me, mostly, is -- is what I saw.
Q. Okay. And --
A. And billboards.
Q. I understand. And -- but you chose these, again, out of a book that was given to you by the -- by the -- by your lawyer?
A. Yes.
Q. Okay. Now, could you leaf through those and ask me -- and tell me if you see anything in them that you interpret as being any sort of a health claim on the part of tobacco companies.
A. On the part of the tobacco companies?
Q. Yes, ma'am.

00302

A. With health?
Q. Yes.
A. I see -- what do you mean by "health"?
Q. That any -- anything in any of those ads that -- that you think is the tobacco company saying that the cigarettes are a healthy thing for you to smoke.
A. She looks pretty healthy.
Q. Well, all right. That's 5-B right?
A. Yes. And he looks pretty happy.
Q. Okay.
A. So I guess if you are happy and healthy, yes.
Q. But there's nothing in any of the words that you see in this packet of 5 that says anything about health, is there?
A. "Smooth" and gives you character. I -- I wish I looked at healthy as she does.
Q. Well, what is there about those words "smooth character," that you think is some sort of a health claim?
A. A what?
Q. A health claim.
A. Oh, I didn't say it was a --
Q. Okay. That's a description of -- of Joe Camel, is it not?
A. Yes.
Q. All right.

00303

A. And the "75 years and still smoking." If I was --
MS. CHABER: It's on A, I believe, your Honor.
MR. SCARVIE: Q. This is Exhibit 5-A?
A. Yes. I can't imagine smoking for 75 years.
Q. Okay. So you think that the words "Camel 75 years and still smoking," you interpret that as being some sort of a health claim?
A. I would say so. Doesn't it --
Q. All right. Right above that, ma'am, is a -- a big black box and it says "Surgeon General's warning: Cigarette smoke contains carbon monoxide."
A. Uh-huh.
Q. Would you take that as a warning about health aspects of cigarettes, would you not?
A. Now I would because I know what cigarette smoking

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does to me. Okay?
Q. And when you saw that -- when you saw that, though, you understood -- as Mr. Barron established yesterday, you understood what all those words were?
A. Actually, what I understood is carbon monoxide is car exhaust. And why would car exhaust be in cigarettes?
Q. Right.
A. That tells me nothing.
Q. It tells you --
A. It tells me why --

00304

Q. Doesn't it make you --
MS. CHABER: Wait. Wait, Counsel. Let her finish, please.
MR. SCARVIE: I'm sorry.
MS. CHABER: Don't argue.
MR. SCARVIE: I apologize.
THE WITNESS: Why -- why would you be telling me there's car exhaust in cigarettes? Why would you sell a product with car exhaust in it? This is what I think.
MR. SCARVIE: Q. Okay. Didn't that make you want to find out more about what that warning was all about?
A. I don't recall reading this --
Q. You never --
A. -- until --
Q. You never read it before today?
A. Well, not today.
Q. But this week?
A. Well, I can't tell you if I recall seeing this, you know, or when I -- I can't recall a specific time that I read that specific sentence on anything.
Q. Okay. Can you find any other statements in the packet that are in front of you that you take to be some sort of a health claim?
A. A health claim?

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Q. Yes, ma'am.
A. Only that these guys are partying, and smoking cigarettes seems to be part of it, and they are having a good time.
Q. Anything else?
MS. CHABER: He doesn't just mean the one on top.
MR. SCARVIE: Q. No, no. I mean the whole packet.
A. Oh, the whole thing?
Q. Yeah. Take your time, if you need to. I know you've seen those several times now, but ...
A. Do you want me to tell you what makes them healthy, is this --
Q. No. Just if you -- if you see anything in them that you take to be a health claim of any kind, that's what I want to know.
A. I -- I don't -- helps you relax. This guy is relaxed. That's 5-I.
Q. Okay. Anything else?
A. I haven't read all this small print.
MS. CHABER: That's okay. Do you have trouble reading? It's too small.
THE WITNESS: It's way to small.
MR. SCARVIE: Q. Okay.
A. I --

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MS. CHABER: I can't see.
THE WITNESS: Oh, I'm sorry.
MS. CHABER: That's okay.
THE WITNESS: I see no health claims.
MR. SCARVIE: Q. Okay. Would you take a look at the one that I've pulled out here, it's 5-X, it's toward the end, it's this Camel cash.
A. Okay.
Q. Now, you recognize that, right?
A. As Camel cash, yes.
Q. Yes, ma'am. And you have seen this Joe Camel with a wig looking like one of the Founding Fathers before, right?
A. Yes.
Q. You guys used the Camel cash to get products which you told us about yesterday, right?
A. Yes.
Q. You collected the Camel cash for products?
A. Yes.
Q. Okay. And I take it that from time to time you -- you saw exhibits like 5-X, which is a -- I guess a promotion for Camel cash, right?
A. That is Camel cash.
Q. And he's holding Camel cash, right?
A. Yes.

00307

Q. Okay. And you've seen this before?
A. Well, I -- I picked this because of the Camel cash. I --
Q. Okay.
MS. CHABER: She's pointing to --
THE WITNESS: The Camel cash.
MS. CHABER: -- the small.
MR. SCARVIE: Q. Yes, ma'am.
MS. CHABER: -- objects.
MR. SCARVIE: I see that.
Q. You see on this promotional literature, though, don't you, a big white box there that says "Surgeon General's warning: Quitting smoking now" -- I'm sorry. "Quitting smoking now greatly reduces serious risks to your health." Do you see that?
A. I see it now that you pointed it out.
Q. And you have seen that before, haven't you?
A. I can't honestly say that noticed it.
Q. You never noticed it before?
A. No.
Q. Okay. That's a warning that there might be something in cigarettes that you ought to be concerned about, isn't there? I mean, you understand what that is?
A. Now I do, yes.
Q. Okay.

00308

A. If -- if they are so bad, why were they made available for me to buy?
Q. Well, ma'am, but if you had noticed this warning in the past, you would have understood it, would you not?
A. The -- to me, the government put those labels there. I have no idea whether they were true or not.
Q. I understand. You told us that yesterday.
A. Yes. And I'm telling you now the same thing.
Q. But you understood the words, you understand the words? Yes?
A. Understand the words, but maybe not what it did to

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my body.
Q. Okay. All I am getting at is, if you had noticed that before, that would have been something that would have made you wonder and investigate, and maybe ask your doctor about whether cigarette smoking was a good thing for you to do, isn't that right?
A. But I told you, I did not notice it there.
Q. Never noticed it until 1998, is that your testimony?
A. Until you just pointed this out right here now, I just saw this.
Q. All right. So if I'm getting this --
A. I did not --
Q. I'm getting this clear, it's on every pack of
00309
cigarettes you smoked, it's on the promotional literature that you got for Camel cash, it's on the cartons, it's on all of the -- the radio, newspaper advertising, but you never noticed it, is that your testimony?
A. No. I am saying I can't tell you specifically what I read and didn't read, because I can't specifically remember actually reading a pack of cigarettes or when or where. And even so, I -- I didn't believe. You -- you guys said that these were safe.
Q. Okay.
A. You make them.
Q. You've mentioned that before, and I'm sure Mr. Barron will get into that more when he interrogates you; but what's the source of your information that, as you've put it, "you guys" represented that they were safe?
A. I don't -- I don't know.
Q. You don't know where you heard that?
A. No. I haven't --
Q. You just know that from somewhere?
A. Yes.
Q. You can't remember any radio or TV show or -- or --
A. Just.
Q. -- book or news magazine, or any news report, or anything like that, that where you ever got this
00310
information, you just got it from somewhere, is that right?
A. Just specifically what we spoke of yesterday, of the -- the vote on the news clip I saw on the tobacco companies voting, no.
Q. I understand.
A. That is all I can --
Q. Yeah. Thanks -- thanks for that. Okay.
A. Other than that, I can't specifically tell you. I just --
Q. Okay. I appreciate that. Did you ever -- did you ever smoke a brand of cigarettes called More, More cigarettes?
A. I have.
Q. When did you do that?
A. I'm not really sure.
Q. Would it have been in the '90s, or do you know?
A. I'm -- I'm not sure.
Q. Okay. Do you --
A. It wasn't much.
Q. A small amount?
A. Yes.
Q. And do you recall why you tried More cigarettes?

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A. Because they were long.
Q. Okay. Any other reason why you tried More cigarettes?

00311

A. Not that I know of.
Q. And what was it about the fact that they were long that -- that appealed to you?
A. Smoked more.
Q. Okay. Any other attribute of More cigarettes that attracted you to them for a period of time?
A. Not that I recall.
Q. And why did you not continue on with that brand?
A. I liked my Camels.
Q. All right.
MR. SCARVIE: Thank you very much. I appreciate you letting me take you out of order.
THE WITNESS: You are welcome.
MR. BARRON: Can we go off the record just a minute, allow me to slide over and get my things in front of me?
VIDEO OPERATOR: Going off the record. The time is 10:10.
(Discussion off the Record.)
VIDEO OPERATOR: We are back on the record. The time is 10:12.
EXAMINATION BY MR. BARRON
MR. BARRON: Q. Good morning again.
A. Good morning.
Q. Are you feeling well enough to proceed this

00312

morning --
A. Yes.
Q. -- some time?
A. Yes.
Q. And as always, but I just want to remind you that if at any point you need a break during which you'd like to rest and then come back for further testimony, just indicate that at any time. And if for any reason you feel you may not be able to give your best and most accurate testimony today, just tell us that and we'll stop for the day and come back when we all can. Okay?
A. Yes.
Q. I would like to ask you some questions dealing and concerning that period in your life before you first tried smoking a cigarette at age 13 with that girlfriend.
By the way, who was that girlfriend?
A. Gloria Canales.
Q. And how do you spell her last name?
A. C-A-N-A-L-E-S, I suppose.
Q. Had you gone to elementary school with her?
A. Yes.
Q. Had you been friends with Gloria in elementary school?
A. She lived next door. Yes.
Q. For how long had you been friends with Gloria

00313

before she got you to try your first cigarette?
A. I -- I don't know. Three years. That's a guess. We are talking a long time ago, you are asking for --
Q. I'm asking for your best recollection.
A. Yes.
Q. It's kind of funny, though, people's recollection works different ways. Mine is better for some kids I grew

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up with in elementary school than it is for some people I went to college with or law school, for example, because you spend more time with them, or there's something about the memory that makes it work that way.

So I don't know how yours works until I ask you, and I just wanted you to give me your best estimate or best recollection. Okay?

A. Yes.

Q. And did she continue on with you in school through junior high?

A. I believe so.

Q. And how about into high school; did she go to the same high school?

A. No.

Q. Did you remain friends with her at all after you entered the new high school out in [DELETED]?

A. Yes.

Q. Is she still a friend?

00314

A. I haven't seen her in -- since I worked at Motel 6 in Ventura, and I don't know when that was. It was a long time ago.

Q. Do you have any idea whether Gloria is still in the Ventura area or not?

A. Last I heard, I think she lived in the state of New York, and that was just hearsay.

Q. When you last heard of her, was she using her same name or had she married or taken a different name?

A. I don't know what name she was using.

Q. What were her parents' names, if you remember?

A. Mary and Frank Canales.

Q. And you said she lived next to you for awhile. Was that on the same street?

A. Yes.

Q. And that was the street that you lived on for many years from the time you were born up until the time that you folks moved to on how, is that right?

A. Correct. Entrada.

Q. In any event, again, what I wanted to ask you about was that time that you and Gloria Canales smoked what was for you, your first cigarette.

You had five siblings as part of your family at that time, isn't that right?

A. Yes.

00315

Q. You had one younger brother, David, who was about four years younger, correct?

A. Yes.

Q. You had a brother, Ken, or Kenneth, who was about two years older?

A. Yes.

Q. You had Rebecca, as you call her Becky, who was about six years older?

A. Yes.

Q. And you had a brother, Michael, who was about 13 years older.

A. I -- I guess.

Q. Okay. I don't want you to guess.

A. Well, I don't know how old he -- how much older he was at the time, is what I meant. I'm sorry.

Q. He's --

A. I guess he was 13 years older. Is that better?

Q. He's still alive?

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A. As far as I know.
Q. And he would be 13 years older than you today because he was born in August of 1947. Does that make sense, or does that sound about right?
A. Yes.
Q. Okay. By the time that you tried, at the suggestion of Gloria, this smoking for the first time, by

00316

that time did you have one or more of those brothers or sisters whom you liked and trusted?
A. They were my siblings. I don't know what you mean by that. I loved them all. They were my brothers and sisters.
Q. Were there any that you felt would tell you the truth if you had an important question to ask about a subject that you would rather discuss with them than, say, your parents or a friend?
A. I couldn't say. I couldn't tell you what my frame of mind was then. I don't remember that.
Q. You don't remember whether you thought of your relationship with your brothers and sisters in that regard when you were 13?
A. I -- I don't know what you are trying to get at.
Q. Well, let me give you an example. Sometimes I know a younger sister can look upon an older sister, and not get along with the older sister, think the older sister is -- to use what kids sometimes use, a phrase -- a jerk and not want to talk to them, and not trust them, and not go to them with anything.
On the other hand, some sisters have relationships where younger sisters look up to the older sister and think they are pretty neat, sometimes want to be like them, at least in certain ways, and certainly would feel comfortable

00317

going to them and ask them a question, such as, jeez, older sister, is it a good idea if I do this, or do you know anything about this.
And I just don't know what kind of relationship you had with any of your brothers or sisters when you were 13, and that's what I -- that's what I am trying to find out.
A. It was -- it was pretty good relationships.
Q. Okay.
A. If that's what you want to find out, yes, we were a close family.
Q. And so if you wanted to find out something that could be important to you, for example, important to whether you were going to stay healthy or alive, you would feel that you could have gone to them and said gee, do you think it's a good idea that I do this, or do you think it's a bad idea; and if so, why?
MS. CHABER: Compound and vague, ambiguous.
JUSTICE DOSSE: Overruled.
Do you understand the question?
THE WITNESS: My understanding is I have brothers and sisters that I can talk freely to. I mean -- but I don't know the point you want me to bring out, because I -- about what? I -- I can't -- a specific incident?
MR. BARRON: Q. Well --

00318

A. I obviously didn't ask anybody anything.
Q. Well, just take a most extreme example. Supposing you had some friend in the neighborhood who also was a

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friend in school, and that friend had, say, other friends and you were tending to -- to use what kids say "hang around" that group, and this person came to you at age 13 and said gee, you know, I want you to take this needle and shoot this into your arm, and it's heroin.

What I am asking, for example, is would that be the kind of thing that you would have felt comfortable going to one of your brothers and sisters and saying, if you didn't know, jeez is that a good idea? Why is this kid asking me to do this? And have a discussion, or ask your brother or sister questions about it?

MS. CHABER: Calls for speculation.

JUSTICE DOSSE: Sustained.

MR. BARRON: Q. Do you have an opinion as to, when you were 13, whether you felt that you had such a relationship with any of your brothers and sisters that you could have gone to one of them, or more than one of them if you didn't understand the potential health risks or dangers or consequences of an activity, and you wanted to find out what they thought about it, whether it was safe or not?

A. I don't know about that particular subject, but I'm sure that if I wanted to, I could ask anybody any

00319

question, not just my brothers or sisters.

Q. And --

A. This is -- seems to me a silly question, because anybody can ask questions of anyone --

Q. Sure.

A. -- of anything.

Q. Sure.

A. And I -- I don't -- I don't understand where you are coming from on this.

Q. Okay. Anybody can. But sometimes people feel that they don't feel comfortable, because of the lack of a relationship with the person, or because they have a bad relationship with the person.

So I am trying to find out whether you felt comfortable with your brothers and sisters, whereby you would feel that you could go to them if you had a question like that, meaning involving a question of whether something was a good idea for you or might have some risks to your health.

A. I -- I don't know why I couldn't ask them any questions, but I couldn't tell you that I would go to them to ask anything specific.

Q. What about your parents, would your answer be the same for them?

A. Yes.

00320

Q. Did you have any other people that you felt comfortable with? For example, your attorney asked you whether at times you went to church. Before you were 13 years old, at times did you go to church?

A. Yes.

Q. What church was that?

A. It was St. Paul's.

Q. Where was it located?

A. Ventura.

Q. And how regularly did you attend until you were age 13?

A. When I was young, every Sunday.

Q. Was there a time when you stopped going while you were still young?

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A. Well, we would ditch and go out in the car and read the funnies.
Q. By the time you were 13, what was your relationship to the church and any person who was available as a church person for people who noticed he had to have some advice or help?
A. My relationship is a personal relationship with God.
Q. Did you know anybody associated with St. Paul's that you felt comfortable going to if you had a question that you wanted to have answered that involved whether

00321

something might be a good idea or a bad idea for you to engage in?
A. No.
Q. Did you like elementary school?
A. I suppose so.
Q. Did you get along with your teachers most of the time or not?
A. Yes.
Q. Did you like your teachers most of the time or not?
A. I liked them.
Q. Were there any there that seemed to be the kind of people who would give honest, straightforward answers if people asked them a question?
A. I -- I don't know. I didn't have personal relationships with my teachers.
Q. No. I'm not saying "personal relationships." At times in elementary school, didn't kids raise your hands with questions and get answers from teachers?
A. Questions on what? That's school. I --
Q. That's right. That's right.
A. I suppose.
Q. Okay. And didn't some of those questions involve things about science?
A. I don't know. I don't recall specific things that

00322

were asked.
Q. You never learned anything at all about biology or science or health when you were in elementary school?
A. Vaguely do I remember much on health. The food groups is what they mostly taught us, how to eat correctly.
Q. What kinds of food were good to eat because they would promote health?
A. Meat.
Q. That's the kind of thing they taught?
A. Yes.
Q. Okay. Was the teacher or teachers who taught that, people that you felt were trying to give honest answers?
A. I don't know. Those -- that's what the school hired. I can't tell you that. I was just a -- a kid I had to go to school.
Q. But kids are --
A. I wasn't --
Q. But kids -- sometimes they don't give them enough credit. Kids can have impressions about whether teachers are good teachers or bad teachers, whether they are interested or not interested, whether they are generally people who are giving good answers or people who don't know what they are talking about.
MS. CHABER: There's no question.

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00323
MR. BARRON: So let me finish the question.
Q. Did you not ever have any impressions about any of your teachers like the ones I just indicated to you?
A. Not that really stands out, not -- I mean, there was teachers that I would rather have because they were nice, and other ones who were strict, you know, but that -- other than that, teachers are teachers.
Q. Did you have any friends, up until the time you tried smoking at the suggestion of Gloria, who did not smoke?
A. Yes, I did.
Q. In fact, did most of your friends not smoke at the time that Gloria got you to smoke?
A. I can't honestly say which ones had tried smoking or not at that point.
Q. Would you tell me, please, at least which ones you knew had tried smoking by that time?
A. Not for certain, no, I couldn't.
Q. Can you identify any of your friends that you knew had already smoked before Gloria first suggested that you do that that day?
A. Honestly, no, I couldn't.
Q. Had any of your brothers or sisters suggested that you smoke before Gloria did?
A. Not that I'm aware of.
00324
Q. Did any other people that you knew of whatever age, ever try to get you to smoke, or suggest that you smoke before Gloria did?
A. What -- people? Nobody ever told me to smoke.
Q. So the first person that ever tried to get you to smoke, or suggested that you do so, was Gloria on that day that she did?
A. I guess. I -- I'm sorry. I -- yes.
Q. Was there a -- an older person that you knew personally that smoked that you had looked particularly up to up to this point?
A. Whether do you mean, "looked particularly up to"? I had a grandmother who smoked and I loved her.
Q. Okay. Anybody else?
A. My mom's brothers and sisters all smoked. I -- I loved them.
Q. Okay. Anybody else?
A. Whatever relatives there were that smoked, I --
Q. Was the fact this your mother's brothers and sisters smoked, in your view, an inducement for you to decide to accept Gloria's suggestion that you smoke?
MS. CHABER: Calls for speculation; vague and ambiguous as to "inducement."
JUSTICE DOSSE: Overruled.
You can answer the question.
00325
THE WITNESS: I don't know.
MR. BARRON: Q. Was the fact that your grandmother smoked and had a cough that you had noticed, an incentive or inducement for you to accept Gloria's suggestion that you smoked when she made that suggestion to you for the first time?
A. I don't recall my grandmother having a cough at that time.
Q. All right. Was the fact that your grandmother smoked, in your opinion, an inducement or incentive for you

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to accept Gloria's suggestion when you did, that you start smoking when she approached you the first time about it?
A. I don't think anyone had anything to do with it because it was just me and Gloria there. So any other person is -- if you ask me is -- wasn't there, wasn't involved.
Q. Before you accepted Gloria's suggestion, had you ever purchased candy cigarettes in the past?
A. Most likely, yes, when I was young.
Q. When you say "most likely," do you actually --
A. Well, I remember having the -- the -- they were gum cigarettes and the ones that blow smoke.
The actual act of purchasing those, I don't remember.
Q. How frequently did you use or consume candy

00326

cigarettes or gum cigarettes, from wherever source before you were 13 and smoked with Gloria?
A. I don't know.
Q. Was it something you frequently did?
A. I just remember that was part of my childhood was part -- part of the -- the candy that we had to eat was the -- the cigarette candy.
Q. You don't mean to indicate that's the only candy you ever ate as a child?
A. No. I said part of -- that was part of the candy that we had. It was part of the selection for children, and we did select to boy them, obviously, since I've had them before.
Q. How frequently did you have them?
A. I don't know.
Q. Can you give me your best estimate?
A. No. Honestly, no, I couldn't.
Q. Do you have any idea whether it was a couple or three times, or whether it was more than that?
A. No, I couldn't honestly answer that. It's like saying, how many M&Ms have you ate? I don't know.
Q. By the time that Gloria got you to smoke for the first time, what was your favorite TV commercial or commercials that had cigarettes or smoking as their theme or as what they were advertising?

00327

A. I don't know.
Q. What was your favorite advertisement or advertisements that you had seen in print, either on a billboard or in the newspaper or in a magazine?
A. I don't know.
Q. What was your favorite commercial on the radio by that time?
A. I don't know.
Q. Before Gloria got you to smoke for the first time, had you been kind of hoping and thinking about the opportunity to smoke?
A. That, I don't recall thinking of anything, the sort.
Q. Had you, before Gloria came to you, felt that you better hurry up and smoke in order to become an adult or in order to be accepted by anybody or any group of people?
A. I don't recall my thoughts at that time. That's a long time ago you are asking me to recall personal thoughts, and I don't know what I was thinking at the time. I was teenager.
Q. Okay. That's true. And I am doing that. And if

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you don't remember that's fine.
But to give you another example, it is said -- and some of us have experienced the fact that they can always remember the first kiss. They also can probably remember

00328

whether they wanted to have a kiss or be kissed before it happened, even though they are young and even though it was a long time ago.
So what I am trying to find out from you is, before Gloria came to you and got you to smoke this first cigarette, were you sort of sitting around kind of thinking about how nice it would be if you could only smoke like an adult, or only be accepted by a group of people who were smoking that you looked up to, or anything like that?
A. Not that I remember.
Q. Were you trying to model yourself after any particular well-known celebrity, or if not well-known, some particular model when you decided that you would accept Gloria's suggestion that you start smoking?
A. No.
Q. Did you only smoke one cigarette with Gloria that first time that she got you to smoke?
A. Yes. That day, yes.
Q. All right. Did you smoke another cigarette soon thereafter, or did you wait for some more substantial period of time?
A. I don't remember.
Q. Do you remember where you got the first cigarette that you smoked after the one with Gloria?
A. No.

00329

Q. Do you remember whether it was provided by someone else or whether you were the one that got it?
A. No. I don't remember where the source was.
Q. By the time that you and Gloria smoked, which was for you the first time, had you tried alcohol?
A. I don't know. I don't remember if I had had a sip of beer, or what. I don't know.
Q. By that time, had you had any alcohol that was not with the knowledge and permission of your parents?
A. I don't know.
Q. You can't remember, one way or another?
A. I don't think I did. I don't -- I'm telling you I don't remember. I don't think I did. I was 13.
Q. Again, I'm only able to get from you what you remember, and I don't want you to try to force a memory that's not there.
Sometimes, though, when we think about things and take a moment, memories return. For example, some people do remember when they first drank alcohol that was not with their parents' permission.
A. I was not 13, no.
Q. How old were you?
A. One incident that I remember, I believe I was probably 14, and this made me very sick, it cured me at that point, and my parents knew about it.

00330

Q. After you had done it?
A. Yes.
Q. Not before?
A. No. The throwing up was punishment enough.
Q. Why did you drink that first drink or drinks that you described that made you throw up?

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A. Back to the same reason. It was friends that had the beer.
Q. Was it Gloria again, or somebody else?
A. No, I wasn't Gloria.
Q. Who was it?
A. The other next door neighbor.
Q. Who was that?
A. Randy Losbaugh.
Q. How do you spell his last name?
A. L-O-S-B-A-U-G-H, I assume.
Q. Lived on the same street?
A. Yes.
Q. How old was he compared with you?
A. I think the same age or a year older. We were close in age.
Q. Was anybody else present when this happened?
A. Yes. I think there was another kid there, Alex. They were baby sitting.
Q. You two were babysitting?

00331

A. I was not babysitting.
Q. Who was babysitting?
A. Randy was.
Q. And you were babysitting this kid Alex?
MS. CHABER: She says she was not.
THE WITNESS: I was not babysitting anybody.
MR. BARRON: Q. I'm sorry. I didn't mean to -- that's -- you're right.
A. I --
Q. I kind of grouped you and Randy together.
A. No. We --
Q. The person for whom the babysitting was taking place was Alex?
A. No. He was a friend of Randy's that was also there.
Q. Okay. How old?
A. You asked me if there was any other kids there.
Q. Okay. And let me see if I have this right. Alex wasn't babysitting, you weren't babysitting. Randy was babysitting?
A. He was supposed to be, yes.
Q. Okay. And the three of you were the ones who had the alcohol?
A. It was Schlitz malt liquor, warm beer on ice.
Q. And how old was Alex?

00332

A. He was the same age as us. I believe we were 14 at the time.
Q. And the one who acquired this was Randy or Alex?
A. Randy.
Q. And who was the youngster being babysat by Randy?
A. I -- I don't recall his name. It was a -- a family that lived on the same street that we lived on.
Q. How old was the youngster?
A. I don't know. Eight. I'm guessing on the age. He was in bed sleeping.
Q. Now, did all three of you, meaning you, Randy and Alex, all drink a lot, or just you?
A. I don't know how much they drank. I just remember filling up a tall glass of beer and ice, and I drank one or two or three of them, and my dad came and got me and I threw up all the way home and when I got home, and that was enough.

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Q. Other than the fact that Randy was a friend and Randy offered you the alcohol to drink, was there anything else that you believed at the time influenced you to do that, meaning to drink alcohol?
A. I don't know.
Q. Do you believe that you had been influenced by commercials or ads for alcohol that led you to want to drink as you did that day?

00333

A. I haven't seen them drink beer on ice on TV like that. I don't know. I couldn't tell you.
Q. So your answer is no or --
A. No.
Q. -- you don't know?
A. I don't know.
Q. In your mind, was drinking the alcohol this day that Randy wanted you to drink, also a rite of passage?
A. I guess so. It was, you know, the kids were doing it.
Q. And you were also --
A. I tried --
Q. -- kind of curious about it because you had seen adults drink alcohol or knew that they did or both?
A. Yes. I tried it and it didn't like me and -- yuck.
Q. Okay. So I want to go back again to the time immediately following the first cigarette that Gloria got you to smoke. You know that you went on to smoke again, you are not sure where you got the cigarette, whether it was from someone else or where you acquired it, correct?
A. Right.
Q. And if it was you who acquired the next cigarette, did you acquire it from taking it from someone else as opposed to going out and purchasing a whole pack?

00334

A. I don't -- that, I don't recall. I -- I don't recall where my next -- you know, when I -- I just remember where I used to buy them at the vending machine.
Q. Was there a time before you bought them at the vending machine where you remember that you did borrow or smoke or take some cigarette or cigarettes from others?
A. I never did personally.
Q. Okay. You had some friend or friends who did that and then you would share?
A. Yes. We all did.
Q. Who was the next friend or friends with whom you smoked after you smoked for the first time with Gloria?
A. You mean other people? My friend Kim.
Q. How soon after your first cigarette with Gloria was it that you and Kim smoked?
A. I -- I don't know.
Q. She was the next person, though, who was a friend with whom you smoked, correct?
A. Yes, that I -- that I remember.
Q. And how old was Kim?
A. A year younger than me, I believe.
Q. And was it Kim that came to you and said that she wanted you to smoke with her?
A. I don't remember.
Q. Actually, wasn't it you that suggested to Kim that

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she smoke with you?
A. I don't remember that.

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Q. Where did you get the cigarette or cigarettes?
A. She would get cigarettes from her grandmother.
Q. The first time that you smoked with her, you believed it was from a cigarette or cigarettes that she -- Kim got from her grandmother?
A. I don't -- I don't remember.
Q. Was anybody else present when you smoked with Kim, meaning Gloria?
A. I don't remember.
Q. Was Kim only 12 then when this took place, if she was a year younger than you were?
A. She could have been.
Q. You and Kim hid the fact that you two were smoking, I take it?
A. "Hid the fact," what do you mean?
Q. From others.
A. Well, I guess so.
Q. You didn't tell anybody?
A. Tell who?
Q. Your brothers or sisters, with whom you had a good relationship.
A. No. Not that I recall, no.
Q. Kim's family, who may have had responsibility for

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a 12 year old?
A. I don't know.
Q. Okay. Who was the next person with whom you smoked?
A. I don't know if it's in the specific order, but Randy Losbaugh smoked with us. We were just a group of kids who lived on the street and we would all hang out together.
Q. And who provided the cigarette or cigarettes with whom -- strike that.
Who provided the cigarette or cigarettes that you and Randy smoked for the first time together?
A. I don't know. I can't honestly answer that question.
Q. How soon after your first cigarette with Gloria was it that you remember smoking with Randy?
A. I don't know.
MS. CHABER: How are you doing?
MR. BARRON: Do you want to take a break? We've been going for about an hour, 45 minutes, I guess. I'm happy to take one.
MS. CHABER: It's up to you.
THE WITNESS: I can go a little while longer.
MR. BARRON: Okay.
Q. Now, there came a time, as you've mentioned, where

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you started actually buying cigarettes from a vending machine?
A. Yes.
Q. And it was at a service station that was, as you mentioned, somewhere near an elementary school?
A. Yes.
Q. And you mentioned that you had to pass by that to get to the junior high school?
A. Yes.
Q. Are you saying that that service station was directly on the closest route from your home to junior high school and that you didn't have to deviate at all to go to the vending machine?

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A. I would say it was a pretty direct route.
Q. Pretty direct, but not actually the most direct?
A. We rode our bicycles down the alleys all the way to the school rather than ride on the street where the traffic was, so it was a direct route to us.
Q. And you mentioned that you would use the lunch money, thirty cents that your mother gave you, to purchase the cigarettes?
A. I believe that's what it was.
Q. You mean that's what it cost in the vending machine for a package of cigarettes?
A. Yes.

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Q. And is that the same amount that your mother would give you each day for lunch money?
A. I don't remember how much she would give me. It may not have even been every day that she gave me money.
Q. Did you mean to indicate, in what you've said earlier in answering your lawyer's questions, that you actually gave up lunch in order to take the money that was given you for lunch to buy cigarettes?
A. I have used my lunch money, yes. I did use my lunch money to purchase cigarettes.
Q. So you would not eat lunch at all?
A. That -- no. That's not true. I would still eat.
Q. Okay. If you gave up your lunch money for the cigarettes at the vending machine, how would you have food to eat for lunch then?
A. Sometimes we would bum money from other kids.
Q. Okay. What do you mean by "bum money from --"
A. Well, say, do you have an extra -- a nickel -- I think rolls cost a nickel. You know, a nickel is not hard to come by when you are asking for change for a kid in a line.
Q. So there would be days where you'd buy, at the vending machine, some cigarettes, have no money in your pocket for lunch, and then acquire a nickel or something from somebody else to buy a roll, and that would be your

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lunch?
A. Right. Or I wouldn't eat. I was a teenager.
Q. And girls who were worried about their weight --
A. I guess I -- I think -- thinking back, I -- I couldn't, you know, tell you whether -- what day I ate and what day I didn't, or whether I ate.
Q. Now, would your mother give you lunch money every day?
A. I don't think so. Don't recall.
Q. How would it come about that she'd give you money as opposed to not give you money on a particular day for lunch?
A. I don't know. Hit or miss. It -- just like when my kids decide. When I don't want to make lunch for them, or whatever.
Q. Okay.
A. I -- I have no idea. That's ...
Q. That's what I was sort of trying to get at. So at school there was some kind of a cafeteria at the junior high school that you could purchase lunches at, correct?
A. Yes.
Q. But also you could bring your lunch --
A. Yes.
Q. -- in a bag or in a lunch pale or something, lunch

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box, right?

A. Yes.

Q. Or could you do a combination, bring some and then also buy something?

A. Right.

Q. Were there days that you went to school where you brought no lunch at all from home?

A. I suppose.

Q. Don't know for sure, though?

A. Yeah -- no. It's a long time ago to remember stuff like that.

Q. Now, I don't know if your mom was like my mom, but sometimes when that would happen to me she'd say, "Well, how was lunch? What did you buy? Was it any good?" Did that ever happen to you?

A. As a teenager?

Q. Yes.

A. I -- I couldn't recall that -- her asking me that question specifically.

I was one of other kids that lived in the house, so I couldn't tell you what she asked me when I came home about my day.

Q. Did you ever tell her a fib, in other words, tell her that you did buy something for lunch when what you had really done is to take the money and buy cigarettes out of a vending machine?

A. Specifically, I don't recall what I said to her.

Q. Had your mother asked you whether you were smoking at the time, would you have told her you were or would you have fibbed?

MS. CHABER: Calls for speculation.

JUSTICE DOSSE: Sustained.

MR. BARRON: Q. Do you know whether you would have told her the correct answer or whether you would have fibbed had she asked you at this time?

MS. CHABER: Calls for speculation.

JUSTICE DOSSE: Sustained.

MR. BARRON: Q. If I remember correctly from what you said, junior high in the Ventura County area was seventh, eighth and ninth grade, correct?

A. Yes.

Q. And then high school was a three-year high school of tenth, eleventh and twelfth?

A. In Ventura, yes.

Q. In Ventura. Can you describe, as accurately and as precisely as you can, what your smoking was like from the time that Gloria got you to smoke the first cigarette to the time that you graduated from junior high school? And by circumstances, I'm talking about the number of cigarettes that you smoked and the brands that you smoked.

MS. CHABER: Objection. Calls for a narrative, compound.

JUSTICE DOSSE: You can break that down, if you want. The objection is sustained.

MR. BARRON: Well, I can. I'm trying to speed it up.

Do you really want me to go year by year?

JUSTICE DOSSE: Well, the objection is sustained.

MR. BARRON: Well, I'm not speaking to you, Judge, I'm speaking to the counsel.

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MS. CHABER: I made my objection.
MR. BARRON: You want me to rephrase it?
MS. CHABER: Uh-huh.
MR. BARRON: Okay. I can do that.
Q. In your own mind, when was the next change of smoking practice on your part? From the time that you started first buying cigarettes in a vending machine while in junior high school?
A. What do you mean, in my own mind?
Q. Well, let's break it down even further. It may take more time than I thought it might, but let's do it this way, if we can.
You started smoking for the first time with Gloria when you were 13. You then smoked some cigarettes thereafter, you can't remember who provided them, but there came a time when you started purchasing some yourself with

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lunch money out of the vending machine, correct?
A. Yes.
Q. When did that happen, as precisely as you can state for us?
A. As precisely, I would say probably the eighth grade I was purchasing.
Q. And when you say, "the eighth grade," can you be more precise? Because, of course, the eighth grade starts in generally around September and it ends generally in June of the next year and it has two semesters, like most schools.
A. But I don't know what time of year it was.
Q. You just know some time in the eighth grade?
A. Yes. It -- you asked for a general time period. I would say eighth grade, yes, I was purchasing them.
Q. You are saying that some time in the eighth grade, you are not sure when --
A. Right.
Q. -- but some time in the eighth grade is when you believe you first started to purchase cigarettes yourself in the vending machine?
A. Yes.
Q. And from the time of your first cigarette to that time when you start purchasing from a vending machine, can you tell me what your best and most precise estimate is as

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to the number of cigarettes you would smoke in -- if it's a day, a day; if it's a week, a week; if it's a month, a month.
A. I couldn't tell you how many cigarettes I smoked.
Q. Have absolutely no reasonable estimate to provide us?
A. You mean like if I was walking to school, I may have had a cigarette walking to school.
Q. What I mean is not so much where you had it, and I'm not trying to find out what may have happened, because anything is, I suppose, possible.
What I am trying to find out is, if you have a memory that would allow you to give me --
A. I --
Q. -- any estimate at all that you think is at all reasonable as an estimate for the number of cigarettes that you would smoke from the time Gloria got you to start to the time you started buying them from a vending machine for any particular time frame, be it a day, a week or a month.
A. I have no idea.

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Q. Okay.
A. I -- I can't count cigarettes. I don't remember.
Q. So now we are some time in the eighth grade and you go to the vending machine and start buying them from a vending machine. What is your recollection as to whether,

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by this time, you had developed a brand of preference?
MS. CHABER: By "this time," being when she was buying from the vending machine?
MR. BARRON: Yes.
THE WITNESS: They were Marlboros.
MR. BARRON: Q. Can you be as specific as you can as to when Marlboro became for you the brand of preference for the first time?
A. When I bought them. That was the first brand I purchased.
Q. At the vending machine?
A. Yes.
Q. Before this time, you really had not had a brand preference, that purchase became your first act of establishing a brand preference, the fact of buying them from the machine?
A. Yes. I -- yes.
Q. Did Gloria have a brand preference by that time?
A. I don't know.
Q. Did Randy have a brand preference by that time?
A. I can only suggest.
Q. I don't want you to suggest.
A. No. I can't honestly tell you what he bought.
Q. Did Kim have brand of preference by that time?
A. I think she smoked her grandmother's cigarettes.

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Q. Which were whether?
A. Raleighs.
Q. Okay.
A. I think.
Q. What other friends by this time did you have that were close to you, or part of your group, or click, whatever term would be most appropriate?
A. There was Randy and his sister Debbie, and I had a friend Brenda and Ann.
Q. Was Debbie a smoker by this time?
A. I don't know.
Q. Was Brenda a smoker by this time?
A. I know she was in the ninth grade. I don't know any ...
Q. Was Ann a smoker by this time?
A. I don't know.
Q. Whenever it was, and you think it was the ninth grade that you know Brenda was smoking, what was her brand of preference, if she had one?
A. I can't tell you for certain.
Q. What was your grandmother's brand of preference?
A. I believe it was Pall Mall.
Q. What was your mother's brand of preference when she smoked?
A. I don't know.

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Q. What was your father's when he smoked?
A. I believe it was Pall Mall.
Q. By this time when you purchased Marlboros from the vending machine for the first time to establish it as your brand of preference, was there a celebrity, be it a movie

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star, a radio star, a model, a sports athlete, anyone else that you particularly looked up to and associated with that person being a Marlboro person?
A. Just the Marlboro man images is all I can --
Q. Any other?
A. Not that I specifically can recall.
Q. By this time when you purchased out of the vending machine, did you consider yourself in any way a tomboy?
A. What do you mean by that?
Q. Well, that's a good question. We always use the phrase a lot, but people have different impressions, I guess, about it.
Were you more interested in doing things that people tended to classify as boy activities than girl activities?
A. I did both. I played barbies, and I played Army with the guys. What's -- there's no big deal in that, is it?
Q. So --
MS. CHABER: Can you -- at a convenient spot, I need to take a break.
MR. BARRON: Sure.
MS. CHABER: But, you know, if you want to go a couple more questions, I don't ...
MR. BARRON: Q. Were you, when you selected Marlboro at the vending machine as the first act of your brand choice or decision, doing that because you wanted to in any way model yourself after or be like the cowboy who was the Marlboro man?
A. No.
Q. Okay.
A. Although I did like horses.
Q. Were you buying Marlboro cigarettes at the vending machine because it made you feel like you were buying a horse product or you were associating with horses?
A. No. The other kids smoked Marlboros.
When you asked me what brand they smoked -- bought specifically, I couldn't tell you what brand they bought specifically, but I know the other kids were smoking Marlboros because they shared them with me.
But I couldn't -- I can't honestly tell you what they bought because maybe they didn't buy them. I don't know. Do you understand what I'm --
Q. Well, I'm not sure, because I asked you not what other kids -- I asked you what other kids' brand of preference was.
A. That and --
Q. So are you --
A. I don't know if they always, always smoked them. All I know is that teenagers that I was around, we most -- they -- they smoked Marlboros. Whether that's their preference, that's their opinion. I can only tell you what mine was. Is that -- did I make myself clear?
Q. So you are saying -- in answering my previous questions when I said what was so and so's brand of preference, you were thinking that even though that person was always smoking that brand of cigarettes, you weren't sure that it really was the one that the person preferred?
A. I can't answer for him --
Q. Okay.
A. -- or anyone else. I can only answer for myself.

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Q. Let's go back, then, and make sure what was the circumstances back then.
When you first bought Marlboros at the vending shown and made it your brand of preference, by that time was Randy always smoking a particular brand of cigarettes?
A. I remember him having Marlboros.
Q. As the only brand?
A. I -- I can't tell you that.
Q. You just remember he had Marlboros at some time?

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A. Yes.
Q. Okay. What about Kim?
A. I don't know.
Q. What about Debbie?
A. I don't know.
Q. What about Ann?
A. Ann, I don't know.
Q. What about Brenda?
A. Brenda, she had Marlboros, I remember. She's -- but I can't tell you --
Q. Always?
A. I don't know. I wasn't around her always. I can't answer for other people.
Q. Did you ever see Brenda with cigarettes other than Marlboros?
A. Not that I remember. I ...
Q. So before you purchased Marlboros out of the vending machine for the first time and made it your brand of choice as the first cigarette of -- of choice, who, other than Randy, who was close to you, do you remember as a smoker, and a smoker who usually or frequently seemed to be associated with smoking Marlboros as opposed to other brands?
A. I don't know. I --
MR. BARRON: We can take a break now. Thanks.

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VIDEO OPERATOR: Going off the record. The time is 11:08.
(Recess taken from 11:08 to 11:32.)
VIDEO OPERATOR: We are back on the record. The time is 11:32.
MR. BARRON: Q. Okay. We've had a recess. Are you able to go forward?
A. Yes.
Q. And, again, please let me know if you need a break or recess, or if you need to stop the deposition and resume it at some other time if you are not giving your best and most accurate answers. Okay?
A. Yes.
Q. By the time that you used the vending machine for the first time, did you have a boyfriend?
A. I don't remember.
Q. By that time, did you have a romantic interest in any particular boy?
A. I couldn't tell you anybody specifically.
Q. By this time, was there a particular boy that -- whether you had a romantic interest in or not, you wanted to particularly impress?
A. I don't know.
Q. By that time, was there a girl or girls that you particularly wanted to impress?

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A. Just, you know, to be part of the crowd of

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friends, that was --
Q. And --
A. Any teenager worries about what other, you know, peers think of them; but in particular, no, I don't ...
Q. And by that time, meaning, again, when you went to the vending machine and used it for the first time and selected Marlboro as your brand for that time, and to whenever forward it was, who were the members of what you called your crowd of friends?
A. I believe I've already told you.
Q. Same ones --
A. Yes.
Q. -- that you've mentioned earlier? Okay.
Do you know, by that time, how many different brands of cigarettes you had smoked at all, in other words, tried at all, tasted at all?
A. No.
Q. Can you give me a reasonable estimate?
A. Well, whatever it was that I first smoked, and Marlboro and -- three, I guess.
Q. How many different types of -- or brands of cigarettes, rather, have you smoked your whole life, even in part?
A. Camel -- do you want me to name them as --

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Q. No. I don't think we need that at this time, because I think we've had a pretty good description of brands that you smoked with any consistency for any period of time.
What I am really trying to find out now is how many cigarette brands you've tasted, whether it be just once or more than once.
A. I don't know.
Q. Can you give me your best estimate?
A. Five, six. I have no -- I can't honestly say because I -- unless I sit here and -- I don't know.
Q. I'll give you the chance to sit there and think about it for a minute if that would help, in other words, to have you kind of -- I thought you were trying to remember back to different times.
A. You want me to think, in my mind, what different types of cigarettes I have tried?
Q. Brands.
A. Brands of cigarettes I have tried?
Q. Yes.
A. Any time?
Q. Yes.
A. A good estimate, I would say would be 10 or 11 over the years, you know, here and there trying one, you know.

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Q. Did some or all seem to taste different than others?
A. I guess.
Q. Which of those that you remember having tried or smoked at all, including Marlboro and Camel, suited you from a taste standpoint the best?
A. Camel and Marlboro.
Q. It's hard to describe a taste when people ask what does something taste like, if it's meat, sometimes they say "chicken" to a lot of things.
Is there any way that you can describe for me what the taste of Marlboro is like, as opposed to some of those

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other brands that you tried and didn't like as well?
A. I don't know. I guess they weren't yucky tasting. I haven't smoked in a year. I --
Q. You mentioned that you inhaled because it was icky not to, when you answered one of your lawyer's questions. I take it from that, even though you now have the feelings you do about what cigarettes have done to you, there was a time where they didn't taste icky, they tasted good, is that correct?
A. Yes.
Q. And that was part of the enjoyment and reason for smoking, correct?
A. I suppose, yes.

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Q. And there were other reasons why you did besides those that you've already mentioned? I mean, for example, it seemed to you to be associated eventually with activities that you enjoyed, correct?
A. What seemed to be --
Q. Smoking.
A. What kind of activities are you talking about? Smoking --
Q. Having coffee, following a ride on a motorcycle that was exciting, things of that kind.
A. I don't know about following a ride on a motorcycle, but I -- I drank coffee and smoked cigarettes, yes. They go together.
Q. Were there other things like this that seemed to go together with smoking?
A. After you eat, you smoke.
Q. Anything else?
A. Whenever my body triggered to tell me it wanted a cigarette.
Q. Anything else?
A. It was an all-day thing.
Q. Anything else that you can add?
A. Any -- any of all-day activities. Whenever I sat down and/or stood up, or whatever, smoked a cigarette. I -- it was when my body told me I wanted one, I suppose.

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Q. From the time that you first purchased the Marlboros and it became your brand, to when you first started also smoking Camels, was how long a period?
MS. CHABER: Could I hear that back?
MR. BARRON: I'll just rephrase it probably in a better way.
THE WITNESS: I was in --
MS. CHABER: Wait. I need the question again, Leslie. Sorry.
MR. BARRON: Do you want to have it reread or do you want me to rephrase it?
MS. CHABER: However you want to do it. I just -- I missed the question.
MR. BARRON: Okay.
Q. We were talking about the fact that you went to the vending machine and Marlboro became your brand of choice when you first bought them from the machine, correct?
A. Right.
Q. And they stayed your brand of choice for a period of time?
A. Yes.
Q. It was your exclusive cigarette that you would

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buy, it was your exclusive cigarette that you would smoke, except if there was ever a time when you might take a puff

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of someone else's or borrow it or something, is that right?
A. Right.
Q. Okay. Then there came a time, though, that you began to also smoke Camels?
A. For a time, yes.
Q. Okay. Can you be as precise as you can as to when that occurred, that you also then began to smoke Camels, along with Marlboros?
A. I believe I was 16.
Q. Now --
A. Fifteen or 16. I was in -- it was -- I was in my senior year of high school.
Q. You anticipate what I was going to ask you. I was going to tie it into a period so we could be as close to being accurate as we could.
MS. CHABER: And, Counsel, if I could just interrupt for a second. I know yesterday we talked about that there was some confusion from the interrogatories that Ms. Whiteley had provided.
MR. BARRON: I'll allow you --
MS. CHABER: And we have amended them, and it just might help you -- I'll pass these out -- in terms of dates and so fourth, an amended set of answers.
MR. BARRON: Let me look at that in just a moment.
Q. But while we are on this train of thought, if we

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could -- when you say "senior in high school," because you actually combined or crunched --
A. Right.
Q. -- junior and senior years together --
A. Yes.
Q. -- which you mentioned yesterday?
A. Yes.
Q. Are we talking then about that year some time that would have started in the fall around September of 1975 and led to a graduation from high school in the summer around June of 1976?
A. It was in that time period.
MR. BARRON: Okay. Now, with counsel's permission, maybe we can go off the record for just a time, enough for me to take a looked a this amended document she's providing and see if this leads to any further questions.
MS. CHABER: Sure.
VIDEO OPERATOR: Going off the record. The time is 11:43.
(Discussion off the Record.)
VIDEO OPERATOR: Back on the record. The time is 11:45.
MR. BARRON: Q. Now, by what time, following your first use of the vending machine and the selection of

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Marlboros, was it that you are able to tell me, with reasonable accuracy, how many cigarettes a day or a week or a month you were smoking?
A. What do you mean by "what period"?
Q. Well, we have testimony that's fairly thorough already about what you could remember and not remember about the number of cigarettes you smoked, I believe, up until the time that you started buying them from the

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vending machine.
A. Uh-huh.
Q. So now I am talking about following the time that you make the first purchase from the vending machine of cigarettes, which also was the time that you made your brand selection of Marlboro.
A. Right.
Q. Following that, can you tell me, as precisely as you can, when you can tell me you were smoking a certain number of cigarettes during any particular time, meaning a day, a week or a month? I mean, how many were you smoking? It looks like I'm confusing there. Let me ask it this way.
A week following the time you bought the first pack of cigarettes from the vending machine, the ones that were Marlboros, can you tell me, that week following, how many cigarettes per day or per week or per month you were smoking regularly?

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A. Not accurately, no.
Q. When can you first do that? For what time period can you first do that, if you can at all?
A. Only in recent years, accurately, to tell you how many, you know.
Q. And when you say "recent years," what do you mean, as precisely as you can state it?
A. Last few years that I smoked.
Q. And what do you mean, as precisely as you can say it by the phrase, "last few years"? What do you mean, "last few years"?
A. You just asked me for a time period.
Q. Right. A "few" has different meaning --
A. To be accurate --
Q. -- to people? I'm trying to get from you --
A. Two years. Okay? If you want a number. The last two years I was smoking a pack and a half to two packs a day, that I can honestly tell you -- give you an honest estimate.
Q. Okay.
A. Before that I -- I couldn't tell you, I mean, precisely how many cigarettes I smoked. I -- I suppose it depended on what I was doing at the time.
Q. And I appreciate that you can't give me precise numbers.

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Is it also true that you can't give me what you believe is a reasonably accurate estimate or number, other than for the last two years?
A. Well, you just asked me for a time period and I just gave you one.
Q. That's right. So now, I'm --
A. And even in that time period, what a person does throughout the day is not the same thing every day so -- you don't smoke or do anything the same amount of time a day, so I can't be precise with you.
Q. I understand the precise part. Now I am asking for something not absolutely precise. I am asking for something you believe is a reasonable estimate.
Are you able to, either average the numbers out, or in any other way provide a reasonable estimate? I'm not trying to force you to. If you can't, I'm going to accept your answer.
A. Well, you'll have --
Q. But are you able to provide a reasonable estimate

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for any time frame after you purchased cigarettes from the vending machine, up to a couple years ago, for how many cigarettes you'd smoke in any time frame, be it a day, a week, a month, or whatever?
A. I have no idea of -- I mean, I can't -- I can't honestly tell you that in the eighth grade I, you know,

00362

smoked so many cigarettes a day. I don't ...
Q. Or so many packs a month, or so many packs a year?
A. No. It's not something that I --
Q. Okay.
A. -- keep tabulating in my brain.
Q. And is your answer the same for each years up until a couple of years ago --
A. Only that --
Q. -- that you would not be able to --
A. Only I know when I quit smoking I was up to smoking a pack and a half to two packs a day.
Q. So your answer for not only the eighth grade, would be the same for the ninth grade, the tenth grade, and all the years up to about a couple of years ago?
A. Honestly, I would have to say so because I can't honestly tell you exactly how many cigarettes I smoked.
Q. You would be able to say, though, honestly, that you were smoking the most number of cigarettes when you reached that level of a pack and a half two years or so ago, correct?
A. Yes. That's -- that was my maximum, a pack and a half -- two packs rarely; but mostly a pack a day, pack and a half, depending on what was going on, I guess.
Q. When, during your senior year you first started to smoke Camels, as well as continuing to smoke Marlboros, did

00363

the number of cigarettes that you smoked, as best you recall, remain about the same?
A. I suppose. I don't know.
Q. You have no recollection that the numbers went up or down, is that correct?
A. Right.
Q. And whenever it was that you made the complete switch or transition from Marlboro to Camels, did the numbers that you smoked remain the same?
A. When I switched for good to Camel?
Q. Yes.
A. I smoked more.
Q. Immediately, or was it years later that you got up to the pack and a half?
A. It was a gradual increase --
Q. How long --
A. -- over time.
Q. -- did it take you to go from whatever number you were smoking, whatever that number was, up to what you remember being, at least by a couple of years ago, a pack and a half?
A. I don't know.
Q. Did Camel taste better, or not as good as, just as equal to Marlboro?
A. They were better.

00364

Q. Darn.
Is that one of the reasons why you stayed with Camels then --
A. I smoked.

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Q. -- was the fact it tasted better?
MS. CHABER: Wait, wait, wait. Misstates the testimony. "Stayed with Camels," it's vague as to time because she smoked Camels, didn't smoke Camels, and went back to Camels, so --
MR. BARRON: You are correct.
MS. CHABER: -- it's confusing.
MR. BARRON: And I don't want to do that.
Q. And let me ask it this way: When did you first develop the idea that Camels tasted better than Marlboros?
A. When I tried the lights.
Q. Before that time, what was your thinking as to the taste of Camels compared to the taste of Marlboros? Which, if any, did you prefer?
A. At that time, the Marlboros.
Q. And your amended answers to these written questions that your counsel gave to me a few moments ago, indicates that -- that you went to the Camel Lights, approximately 1984?
A. I think so. The year --
Q. And is that the time when you first thought that

00365

the Camels tasted better than Marlboros?
A. Yes.
Q. Now, when you first tried Camels, you tried them as a senior in high school and they were Camel regulars, am I correct?
A. Right.
Q. And by "regulars," you mean the shorter, stubbier ones that did not have a filter?
A. Right.
Q. And by that time, did you have a boyfriend who was kind of a biker-type?
A. Yes.
Q. And he was a person who smoked those regular Camels?
A. Yes.
Q. And he had smoked those before he became your boyfriend?
A. I don't know.
Q. Well, when you first met him and before he became a boyfriend, do you know whether he was smoking Camel regulars?
A. I have no idea.
Q. Was he your first boyfriend?
A. No.
Q. What was -- what is his name?

00366

A. Mark.
Q. Last name?
A. Fanin.
Q. Spelled?
A. F-A-N-I-N, I guess.
Q. Okay. Do you know whether he's still in the Ventura-Ojai area?
A. I have no idea where he is.
Q. When is the last time that you knew where he was?
A. Then.
Q. In high school?
A. Yes.
Q. You never heard what happened to him, whether he went off to the Navy, or went off to college or --
A. Truck driving. I have heard he's truck driving.

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I'm sorry.
Q. Now, you mentioned, in answering some questions that your lawyer asked you, that when you first started smoking Camels, as well as Marlboros, you had this boyfriend who was a biker-type who smoked them, and you said something about, it seemed like a tough thing to do, and you liked them because it sort of made you tough. Do you remember --
A. Yeah.
Q. -- that?

00367

A. Yeah.
Q. Okay.
A. Yes.
Q. Can you explain a little bit more what you meant by that? I mean, for example, can you tell me, what do you mean by "tough"?
A. Just attitude. You know, cool.
Q. Is "tough" and seeming to be tough, the same as being cool, in your mind?
A. That's what I meant by a teenager, you know, being cool.
Q. Well, I'm -- words can have multiple meanings --
A. "Tough" has nothing to do with being violent, or anything like that.
Q. I'm not --
A. It's just being cool, accepted, you know, other kids not thinking I'm a geek, you know.
You don't want to be the pimply-faced teenager on the block. I felt that I was cool. And not only that, nobody else wanted to bum straight cigarettes off of me, which was another reason for smoking them, because nobody wanted to smoke them.
Q. Well, I'm not sure how it was in your time in high school and how it was in Ventura, and things change over time, but most high school kids did not have motorcycles,

00368

say, when I was in high school.
A. I didn't either.
Q. Okay. Was he one of the few who had a motorcycle?
A. I never rode on his motorcycle.
Q. I'm not asking that. Was he one of the few who had a motorcycle, this boyfriend?
A. Few, what?
Q. Few kids at school who had a motorcycle.
A. He wasn't from the high school.
Q. Okay. I misunderstood, then.
Where was he from?
A. Oxnard.
Q. Was he your age or older?
A. Older.
Q. How much older?
A. I don't know. You know, I don't remember how old he was at the time.
Q. Well, your best estimate.
A. Maybe three years. Two, three years older.
Q. Was he in school at the time?
A. I don't believe so.
Q. Was he working?
A. I don't know.
Q. Did you ever know and you just don't remember?
A. We weren't -- it wasn't -- it -- it wasn't a

00369

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serious relationship, sir. He was a -- a male friend.
Q. Okay. So he wasn't a boyfriend, he was just a boy with whom you were friendly?
A. I saw him, I dated him. Does that -- it doesn't mean we were going steady or anything.
Q. I don't know --
A. I mean, is it important? What does that have to do with what I smoked? What does he have to do with the brand of cigarettes I smoked?
Q. That's what I am trying to find out. It was a subject raised by your lawyer when she asked you questions about when you started smoking Camel and -- and there were answers relating it to this boy.
A. And you --
Q. It was called a boyfriend when you answered, and he was a biker.
A. Well, he was a boy and he was a friend. I mean, we -- the -- what I am saying is, I smoked Camels because he smoked Camels at that time. What -- what -- what else is there that -- that -- I mean, that he has to do with it? You know what I --
Q. Okay.
MS. CHABER: That's --
THE WITNESS: It seems stupid.
MS. CHABER: You've answered the question.

00370

MR. BARRON: Q. You mentioned that one of the reasons you smoked them was because other people weren't and, therefore, they wouldn't bum them off you, right?
A. Right.
Q. So to see anyone in that time frame at your school among your friends who smoked Camel regulars would have been somewhat unusual?
A. Yes.
Q. And in addition, the Camel short cigarettes without filters created an image of some ruggedness or toughness in the people who smoked them, isn't that true?
A. I don't know. I can only tell you what I feel.
Q. And that's what you felt?
A. Nobody wanted to smoke my cigarettes.
Q. Because they seemed to be strong?
A. I guess.
Q. And --
MS. CHABER: Don't guess or speculate as to what other people might have thought.
JUSTICE DOSSE: Sustained.
MR. BARRON: Q. It was your view at the time -- your thought at the time, that it seemed to give the idea of something tough to do, and that it made you kind of tough because the cigarette was, among other things, strong, correct?

00371

A. My opinion was it -- I just gave you my opinion on it.
Q. Can you answer that question that I asked you just now?
A. What -- repeat it. You -- you -- you go on, and then it's seems like we talked about it already.
Q. One of the reasons why it seemed like a tough thing to do, or made you feel kind of tough, was that the cigarette tasted stronger, or you thought it was stronger than other cigarettes, correct?
A. You could say I was being tougher because it had

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no filter.
Q. That was going to be my next question. And what was it about the fact that it had no filter that made it seem a tougher thing to do?
A. I don't -- getting tobacco in your mouth. I don't know. In particular -- all -- all I know is that when somebody else says, "Can I bum a cigarette off you," and I pulled out my Camel straights, they went "yike," and I didn't have to share them.
Q. Did it also seem to you that it was a stronger cigarette?
A. Yes.
Q. And by this time, you understood that filters were supposed to have the potential of filtering out some of the
00372
things in the tobacco or the cigarette smoke, isn't that true?
MS. CHABER: Lacks foundation, calls for speculation.
JUSTICE DOSSE: Overruled.
You can answer the question.
THE WITNESS: I thought the filters kept the tobacco out of your mouth.
MR. BARRON: Could we have the question I asked reasked by the Court Reporter, and have you answer it if you are able, please.
MS. CHABER: She just did.
JUSTICE DOSSE: I think it was answered. It was responsive. You can ask the next question.
MR. BARRON: Q. Did you have any idea at all, did you have any information at all, did you have any hint at all that the filter on cigarettes were supposed to have potentially the capacity to filter out or reduce any of the things contained in the tobacco or the tobacco smoke?
A. I don't think so. I was a teenager. They are not educated in those things.
Q. You had never heard anybody say anything like that, is that correct?
A. Say anything like what?
Q. That filters were supposed to filter out or take
00373
out some things that were in the tobacco or the smoke or reduce them?
A. I don't know. Maybe in advertising they may have said "smooth taste," but I have no idea with -- filtering anything.
Q. You had never read anything written by anybody, including the tobacco companies, that suggested that filters were supposed to take out or reduce any of the things in the tobacco or in the smoke?
A. As a teenager? I couldn't answer that. I can't honestly say what I read.
Q. And you never heard that anyone -- or read anything by that time that suggested that filters might have the potential to take out or reduce any of the things in tobacco or it's smoke, is that correct?
A. I don't know.
Q. Did the short Camels without filter have an association, in your mind, that people who smoked them tended to be a little stronger, or a little tougher, or a little more independent, a little more rugged, a little more counter-culture, or any of those things?
A. I don't know. I don't recall having an opinion on

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other people's smoking.
I -- you are asking me marketing questions that I -- I don't know.

00374

Q. Isn't it true that in your mind at that time, Camels regular, without filters, tended to have, in your mind, an association that it meant that people who were smoking them were the kind of, people who were somewhat tougher, not just meaning cool, but somewhat physically or emotionally tougher and who were -- let's leave it at that, first of all.
A. That -- no.
Q. Or that the people who smoked them were in some way a little bit more rebellious than others?
A. I can only answer for myself.
Q. And what's your answer for yourself?
A. That the -- the person that I knew who smoked them, I only know what he was like as a person. I have no idea what the other people were like who smoked Camels.
Q. So what is your answer?
A. My answer was that he was a biker-type person, and that's all it was, a remark this I made to my attorney.
Q. And what's a biker-type person, in your mind?
A. In my -- somebody who likes motorcycles.
Q. Nothing more, nothing less?
A. Nothing more, nothing less, what? It's a lifestyle of -- a hobby.
Q. What is the lifestyle of a biker, in your mind?
A. They ride motorcycles.

00375

Q. Anything else?
A. I don't know. Well, whatever else they do in their life. I only know what I do.
Q. It has no other association to you at all?
A. What?
Q. A biker lifestyle.
A. What does that have to do with Camels? I mean, what -- with your question, you are going on and on, and then you are -- now I am confused.
I was just saying this guy that smoked Camels rode a -- he was a biker. That's ...
Q. Well --
A. For goodness sakes. I can't see analyzing him as a person that's -- you know, that -- what's the point?
Q. I'm only trying to find out, to the best of your ability, what you have in mind when you use a phrase like quote, biker-type, close quote --
A. They ride.
Q. -- or "biker lifestyle."
And to me, I have certain images that come to mind, and I'm trying to find out, though, what you mean and what images come to your mind.
A. They ride motorcycles.
Q. Nothing more, nothing less?
A. Whatever they do in their life is their business.

00376

I don't -- I don't know what specifics you want me to do. You buy a magazine and -- and -- see, I don't know if you don't understand what a biker is. I can't explain it to you.
Q. At the time --
A. You've got to be one.
Q. -- did you believe that a biker-type was more

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willing to take risks?
A. I -- I can't answer that.
Q. Or more likely to be resistent to authority?
A. I don't know. That's --
Q. Or more rebellious?
A. I couldn't tell you. It depends on the person.
Q. Of course.
A. Right.
Q. But if you call somebody a biker-type --
A. They ride a bike.
Q. That's all you meant?
A. Right.
Q. How about you at that time --
A. Yes.
Q. -- at that time did you consider yourself in any way somewhat more resistant to authority than the average person at that age?
A. What authority? I -- I followed the rules. I

00377

mean, what --
Q. Well, not totally.
A. Well, I -- I -- I don't know what you mean exactly by resisting authority.
Q. Not following authority.
A. Whose authority?
MS. CHABER: Well, I would object. It's vague and ambiguous.
JUSTICE DOSSE: Ask the question. It's not in a question form right now.
VIDEO OPERATOR: We also need to change the tape.
MR. BARRON: Okay.
VIDEO OPERATOR: Ready? This marks the end of tape 1 of volume 3 in the deposition of Leslie Whiteley. Going off the record. The time is 12:13.
(Discussion off the Record.)
VIDEO OPERATOR: This marks the start of tape 2 of volume 3 in the deposition of Leslie Whiteley. Going on the record. The time is 12:17.
MR. BARRON: Q. Following up on the last idea that you raised about following the rules. I think you did mention, in answering your lawyer's questions, that you remembered that the high school did not allow smoking on campus, isn't that correct?
A. Yes.

00378

Q. And I think you -- did you not acknowledge in answer to your lawyer's questions, that you did smoke at school?
A. Yes.
Q. So there were some rules, at least, that you didn't always follow, fair enough?
A. Yes.
Q. Was that the only rule at school that you did not follow or try to follow?
A. What do you mean, "the only rule"? I ditched every now and then, just like other students did any other time in school.
Q. Any other rules that you did not always try to follow?
A. None that I can recall.
Q. Did the rule -- did the school have other rules besides the two that we've talked about, one for not smoking on campus, and the other for not ditching?

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A. I suppose there's a rule for everything. I --
Q. Okay.
A. You know, the same with rules anywhere, I suppose. There's more than just two rules.
Q. And as best you recall, you tried to follow all the other rules --
A. Yes.

00379

Q. -- that the school had?
A. That I -- that I can remember, yes.
Q. Were there rules that you remember the school had that you thought had a safety purpose associated with them?
A. I -- not that I'm aware of.
Q. The school didn't have, for example, a rule about carrying certain items on to campus?
A. I -- I don't know. I don't read all the rules for school. They don't hand them out to you and you don't read them. I don't -- I don't know.
Q. Well, for example, did not your school have a rule that you believed existed, at least, that was prohibitive of people carrying knives or guns on campus?
A. I don't know. I couldn't tell you exactly what the rules were, the exact rules. I can't -- contact the school.
Q. Did the school have any rules about, for example, during gym class to try to help insure the safety of people participating in the class or help prevent injuries?
A. That's a pretty broad question. I mean, it's -- any time you have -- I -- I don't know what you expect me to answer that with. Just -- just behaving is -- is enough, isn't it, that you don't hurt somebody else in P. E. class? Isn't that what you are getting at? I'm -- I'm --

00380

Q. I'm not trying --
A. I don't know what kind of specific answer you want from that.
Q. I'm not --
A. What rule? I --
Q. As always, I just want you to give me what you best recall and most accurately and truthfully recall. I'm not trying to extract from you any particular answer. I am now only asking you, did your school have rules or a rule that involved gym class that you felt had a safety purpose?
A. I don't know.
Q. But you believed at the time that you were smoking in high school that the school's rule about smoking had no safety purpose?
A. I have no idea about their safety purposes. I was just a student.
Q. Now, you mentioned in answering a question or questions by your lawyer, that there was a junior high school gym teacher that some time later on asked you whether you were still smoking?
A. Yes.
Q. Who was that?
A. I believe her name was Mrs. Mulee.
Q. Do you know how to spell her last name?
A. No.

00381

Q. It's "Mulee," is what you are saying?
A. Yes.
Q. Did she teach any sources besides gym?

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A. I have no idea.
Q. Had she been your gym teacher?
A. Yes.
Q. When did she make this statement or ask you this question?
A. It was some time when I was in high school. I couldn't tell you when. I just had gone and saw her at the junior high campus one day.
Q. Did you go by just to see her, or you just went by and you happened to bump into her?
A. I just happened to bump into her that day.
Q. In answering your lawyer's question, did you mean to indicate that this gym teacher in junior high had known, while you were in junior high, that you were smoking?
A. I assume. I don't remember the circumstances. Honestly, I do not remember the circumstances.
Q. And what was it that she asked you, and what was it that you said? Can you give me, as best you can recall, the whole conversation with this gym teacher?
A. I only remember that she asked me that -- if I was smoking, I believe was the question.
Q. And then you said?

00382

A. Yes.
Q. And then what was said?
A. And she told me it was effect -- slow me down in my running.
Q. Did you ask her why she felt that way?
A. No.
Q. Did she tell you why she felt that way?
A. Not that I recall.
Q. You did not believe her, though?
A. I don't remember what kind of opinion I had at the time.
Q. Is there any reason why you would not have believed her at the time?
A. I don't know.
Q. You mentioned that by the time you were 15 you were smoking in your home, and in ways that your parents would know about it, in other words, in front of them?
A. I -- I -- guesstimated that, yes. It was a gradual thing. I can't tell you exactly, you know, when was the first time that -- that my parents actually knew I was smoking. I can't pin down an exact time for that.
Q. Okay. But your best estimate was 15, is what you said earlier?
A. Approximately, yes.
Q. Can you say whether you recall it during a certain

00383

year in school? In other words, can you remember it was during your sophomore year, for example?
A. All I can say is -- this I know for sure, my mom knew I was smoking the day I got busted at school for smoking. Is that -- that is a certainty there.
Q. That's when the Dean of Girls caught you?
A. Yes.
Q. Before that time, you had been successful smoking in not being caught by teachers?
A. I suppose.
Q. And you had done that in junior high, as well as high school?
A. Yes.
Q. And where had you gone to smoke in junior high so

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that you could not be caught?
A. With the other kids in the bathroom.
Q. Any other place?
A. Off campus.
Q. Any other place on campus?
A. No, not that I recall.
Q. What about high school, where had you gone there on campus to avoid being caught by teachers while you smoked?
A. We smoked in the bathroom, some time out on the lawn. And it was an open campus, so we would go off

00384

campus.
Q. Who was the Dean of Girls that caught you?
A. Suzanna Arsi -- Susan Arsi.
Q. Do you know how to spell her last name?
A. A-R-S-I, I guess.
Q. When you were in suspension hall for those three days following the time that you were caught, how did you occupy yourself?
A. Played paper football.
Q. Anything else?
A. Did -- I suppose did school work. I -- I don't remember specifically what I did.
Q. Did you see the movie The Breakfast Club?
A. Not that I know of.
Q. I don't mean while you were suspended. Have you ever seen that movie?
A. I don't think so.
Q. About kids who were being punished for one thing or another and all sent to sort of a study hall on a Saturday?
A. I never saw that movie.
Q. Now, when you began, whenever it was exactly, smoking in your home, would you do that in front of your father, also?
A. I stayed in my room pretty much or -- or was

00385

outside. I didn't -- it wasn't a through-the-house-thing.
Q. Did your father know, as your mother knew, that you were smoking?
A. I could not tell -- I can't honestly tell you -- I don't think -- I think he knew. I mean, I -- I don't know.
Q. Did you try to refrain from smoking in front of one or both of your parents?
A. I don't remember.
Q. What about your brothers and sisters, would you smoke in front of them?
A. I suppose.
Q. By the time you entered what was the compressed junior and senior year of high school, had you by that time been in a situation where there was another person who started smoking for the first time? And setting Kim aside for the moment.
A. I don't know. I -- I couldn't answer that truthfully.
Q. Had you ever been the person to try to suggest to some person, who had not smoked, that they ought to try it? In other words, do what Gloria did for you?
A. I don't know. And I -- I can't even say that it's her fault that I smoked. It's -- you know, she just supplied the cigarette that day. You make it sound like she made me do it.

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00386
I don't recall ever enticing anybody to smoke, if that's the point you are trying to make.
Q. Had you ever been the person to provide a cigarette to one who had not smoked before?
A. I don't know that. I can't say "yes" or "no" on that, honestly.
Q. In order to be able to compress your junior and senior year together, did you have to have permission from your parents to do that?
A. I -- you know, I don't -- I don't remember that, whether they had to sign anything or not. I have no idea.
Q. How were you able to arrange this, or how was it arranged for you by the school people?
A. What do you mean "arranged"?
Q. Well, I'm not sure how your school worked. I can only give you an example.
When I was in high school, you pretty much had classes assigned to you, a few you could maybe select, but it wasn't like college where you could take double the units or something, at least that I knew about. Maybe I was uninformed.
So I am trying to figure out, were you able to do it just like on a college system, just take a lot of units without asking anybody, or did you ask somebody if you could do this, or did somebody come to you and suggest that
00387
you do it because you were doing so well? Or how did it come about? That's all I am trying to get at.
A. It was my idea.
Q. Okay. So did you just do it without talking to anybody, or did you have to ask permission from some school people?
A. Well, of course, I had to have the school's permission.
Q. See, I wasn't there. I don't know. That's what I am trying to find out.
A. Yes.
Q. So did you do this before your junior year was to start, or did you do it --
A. I don't remember.
Q. -- as it started?
A. I don't remember exactly when the idea came. I just -- I wanted out of school. And -- and I was able to go to summer school. I also took my classes I was supposed to.
Q. Why was it that you wanted out of school?
A. Because I wanted out of school. I -- all kids want out of school. You want to graduate.
Q. Why did you want to -- why did you want out of school a year earlier than would have been your normal graduation year?
00388
A. Because I wanted to complete high school and -- and there was a way to do it, as my niece just did the same thing as --
Q. Can you be as specific as you can be as to why it was that you wanted to complete high school a year early, why you wanted to get out of school a year early?
A. Get out? I wanted to graduate, and I had planned on going to college, but it just never transpired.
Other than that, everybody wants to get over with high school. You get tired of going to school after

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awhile. You know, you look forward to that break.
Q. When you went to summer school, was that the summer before you started your junior year or after what would have been your junior year that became your combined year or was it both?
A. You know, I -- I don't remember if it was between junior or senior of, you know, the first and last. I'm not quite sure what year that was.
Q. You mentioned you were taking college preparatory courses.
A. Some.
Q. Was it your intent to go on to the junior college in Ventura?
A. I hadn't made -- made any -- any definite plans. I just had an idea of what I wanted to do.

00389

I was 16, you know. That's not a mature age. So I can't tell you I was making adult decisions, you know what I mean, for my whole future at that time. I -- 16-year olds pretty -- generally think pretty close to the time they are at.
Q. I am just trying to find out to what extent you had at that time, any firm plans and what they were.
A. I just -- what I wanted to do is -- was -- was to go on to school at some point there, but I didn't have any definite plans.
MR. BARRON: This is a good place to stop for me, and for us for lunch. I think it's about 12:30, maybe a little after. And if that's all right for --
MS. CHABER: Yes.
VIDEO OPERATOR: Going off the record. The time is 12:35.
(Whereupon, the noon recess was taken from 12:35 to 1:41.)
VIDEO OPERATOR: We are back on the record. The time is 1:41.
MR. BARRON: Q. Are you all right to proceed?
A. Yes.
Q. And again, just let us know if you need a break or you need to quit because you are not giving your best or most accurate answers, because of either physical or mental

00390

state. Okay?
A. Okay.
Q. I think when we broke for lunch, we were talking about the fact that you had been able to combine or compress your junior and senior year together to graduate a year earlier at age 16 and a half than you ordinarily would have, is that correct?
A. Yes.
Q. And you did that by going to a summer school or summer schools, among other things, correct?
A. Yes.
Q. Did you go to school earlier in the day or leave later in the day, or take more courses during the regular school year than you ordinarily would have, had you decided to graduate with your class a year later?
A. I'm not sure of that. I just took the required courses that the -- they told me that I needed to take. Whether that was any more or less, or whether I was in school any longer or shorter, I couldn't tell you.
Q. As part of your effort to take a college prep curriculum, college --

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A. It wasn't all college prep, just some classes were.
Q. No. I wasn't meaning that all classes were. I just -- I thought when you say that you were trying to take
00391
a college prep qualifying program -- did I misunderstand?
A. Yeah. I just took a couple classes that they said were college prep courses.
Q. Okay. In any event, that was just a lead in to, I wanted to find out if in school you took any courses in chemistry.
A. No chemistry.
Q. Or biology?
A. No biology.
Q. Or any sciences?
A. I think it was an earth science class.
Q. Did you take a course -- and schools have different names for it, but kind of a general course about how to get along as you become an adult, that includes any teaching of health-related matters?
A. I don't know if I took a -- a class that specifically was for adult health matters. I don't remember that.
Q. Or that included health matters, whether they be directed towards adults or not adults?
A. Some time or another I could have. I -- I -- I don't know exactly the classes I took right now.
Q. Before you graduated from high school in 1976, had you tried chewing tobacco?
A. No.
00392
Q. When was it that you first tried chewing tobacco?
A. I can't say exactly when it was. It wasn't -- it was a recreational thing.
Q. What do you mean by that?
A. Spitting on ants. It was to see who could shot -- shoot on ants with their spit that -- it had nothing to do with anything else. A kid thing. I mean, it was a silly -- just a silly thing to do.
Q. But as I understand it from your earlier answer, you did this some time after you finished high school?
A. I'm -- I'm pretty sure it was.
Q. What is your best recollection as to when it was that you took up this recreational activity?
A. Actually, I didn't take it up. It -- I just remember that incident of spitting on ants that time. It wasn't something I did all the time as a recreational activity.
Q. Okay. Are you saying you only chewed tobacco one time?
A. No. It's -- that was every now and then, you know, (indicating) put a little thing in my -- my brother Kenny chewed tobacco, and every now and then I'd just try it and spit and "yuck."
Q. On how many occasions in your whole life do you think it was that you did what you just described?
00393
A. I would say as a fair -- as a fair guess, not over 30 times.
Q. And over what time period, meaning was it just over 30 days, or was it over a few months, or over a few years or what?
A. Probably over a few years. You know, off and on

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over the years.
Q. Can you tell me in what years that took place?
A. '80s. And that's a guess.
Q. And on each of the occasions, whether it was 30 or some other number, was it always associated with the activity of, as you call it, recreational activity of spitting on ants?
A. No, no. Sometimes it was just because for the heck of it, because it was different.
Q. In fact, did you do it on more occasions where you were not the spitting on ants?
A. Yes. That was the first time I remember was -- was spitting on the ants.
Q. Was this the only time that you used the chewing tobacco and spat on ants, was the first time, or did you --
A. Probably. Yeah. I'm not weird.
Q. Then can you tell me what activities, or in what situations the other occasions took place where you were using the chewing tobacco as you've described?

00394

A. Just here and there, whenever I was around somebody who had it, because it wasn't something that you purchased and it wasn't my thing.
Q. At whose suggestion or -- yours or Kenny's or someone else, did you first try chewing tobacco?
A. I -- it was my own decision, I guess, since I put it -- I mean, it wasn't -- I don't know. Nobody -- I don't know what -- what are you saying, somebody told me to do it? Nobody told me to do it.
Q. Or suggested that you do it?
A. I don't remember if there was -- I don't remember if I asked on my own or if somebody offered, if it matters.
Q. Why did you do it the first time?
A. We were playing around.
Q. Why did you do it the other times after the first time?
A. I -- I don't know. I can't tell you exactly why.
Q. Were there any things that you believe now influenced you to use chewing tobacco, as you've described you did?
A. No, not in particular.
Q. Were there any advertisements on television or radio that you had seen involving chewing tobacco that in any way -- well, let's stop right there. This you had seen, first of all?

00395

A. I don't know.
Q. And so certainly you -- I don't know that -- any such TV or radio commercials were an influence for you deciding to chew tobacco when you did, is that true?
A. I don't think so. I don't know. Don't recall any -- I mean, it was -- chewing tobacco was not an important thing to me, so I can't tell you what influenced me or not. It was ...
Q. What about print advertisements for chewing tobacco, be they in newspapers, magazines, billboards, or wherever else, did you see any such before you chewed tobacco for the first time or before you continued chewing tobacco on any of those occasions that you did?
A. I may have, Skoal. I may have seen ads, but I couldn't be particular and say, yes, I saw them before or -- or after, because I know that they do advertise chewing tobacco, so I can't say I haven't seen one.

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Q. You -- you think you may have seen one, but you are not sure whether you saw any such before you used chewing tobacco yourself or not, is that what you are saying?
A. Right. I don't remember anything in particular.
Q. What about any celebrities, be they in movies or radio, or models or sports figures, any such that you believe were one of the influences, if any, that made you

00396

try chewing tobacco and use it on the times you did thereafter?
A. The only thing I can think of is Clint Eastwood spitting on a dog's head.
Q. Was that in a movie?
A. Yes.
Q. And that was something that may have been an influence, that was one of the reasons why you decided to try chewing tobacco?
A. No. You just asked me if I had seen anything about a celebrity, and I told you that I just know he's always chewing tobacco in his movies. It --
Q. I am trying to now find out what effect if any that had on you, what influence if any it had on you. Was it positive, negative or neither?
A. I -- I couldn't say. I have no opinion on it, I guess.
Q. Were you in any way trying to indicate that his spitting on the head of the dog made you think of spitting on ants?
A. No, no, no. No.
Q. At the time that you used chewing tobacco on any of those occasions that you did, did you have any knowledge or any understanding that the use of chewing tobacco had associated with it, any risks to one's health?

00397

A. Not that I'm aware of.
Q. Is that still what is your state of mind today?
A. Now, I know a lot more.
Q. And now you know it does, in your mind, have some risks associated with it, chewing tobacco?
A. Yes.
Q. And you first learned that also after you were diagnosed with lung cancer?
A. I don't -- I don't know. I just -- you just asked me a question now --
Q. Right.
A. -- what I think now.
Q. Right. And now I am trying to tie it down as to when you learned that, whether it was before or after you were diagnosed with lung cancer.
A. I don't know when I learned that.
Q. Now, up until the time that you graduated from school in 1976, had you tried alcohol again after that circumstance that you described earlier today involving the malt liquor?
A. Yes.
Q. And how many times had you done that without, in effect, your parents' permission?
A. I don't know.
Q. Can you give me your best estimate?

00398

A. No, I can't. I can't even estimate, because I -- I wasn't a partier, whatever you want to call it. I don't

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know what that has to do with smoking, anyway.
Q. Let's see if we can try to get some idea, though, of the number of times. And are you talking about, it could have been, and you believe likely was, say, less than five, or do you believe it was more likely more than five times that this happened?
A. That what happened?
MS. CHABER: What happened?
MR. BARRON: Q. That you used alcohol, consumed it without your parents' knowledge after the malt liquor incident and before you graduated from high school.
A. I have no idea of any time I consumed alcohol without my parents' knowledge.
Q. While you were in high school.
A. While I was in high school. I don't know. I don't know.
Q. You have no recollection of ever doing it again, other than the first time with malt liquor until the time you graduated from high school, that is, drinking without --
A. I did not say I did not drink with -- alcohol. I said without my parents' knowledge.
Q. I know. I was going to add that to my question,

00399

which wasn't completed. Let me make sure we get it out totally.
What you are saying is you have absolutely no recollection of ever using or consuming alcohol without your parents' knowledge up until the time you graduated from high school, except that one time you've already described involving malt liquor, is that what you are saying?
A. I -- I don't recall. I --
Q. Now, with your parents' permission, did you consume alcohol?
A. Occasionally, yes.
Q. And can you describe what you mean by that?
A. Under her supervision. I drank at home. Not -- you know --
Q. I'm not sure I know, but I am going to ask.
What was it that you were allowed to drink at home?
A. She would let me drink screwdrivers, like on a Friday night. It would be little -- little half-pint.
Q. And you were limited to one, or could you have more than one?
A. I don't remember, but it wasn't -- I -- it was no big deal, I don't think.
Q. How frequently would this happen, that you'd be

00400

allowed to have that kind of a drink that you mentioned?
A. Not often. Not often at all. Graduation night at home, stuff -- you know, stuff like that. It wasn't -- I don't know where you are trying to go with this, but I -- it wasn't something I did all the time.
Q. Was it always associated with a significant event like graduation, or was it just sometimes that it was a Friday night?
MS. CHABER: I am going to object. I think that this is getting really irrelevant, remote, not calculated to lead to the discovery of admissible evidence and an invasion of privacy.
MR. BARRON: I could respond --

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JUSTICE DOSSE: Go ahead.
MR. BARRON: -- if your Honor would like.
JUSTICE DOSSE: Yeah. I would like that.
MR. BARRON: We are dealing with a case in which there's been a claim of no knowledge of risks associated with a defendant's product, and we also are dealing with a question of use of a product before it is legal to purchase and use, meaning an under age person.
And so the state of mind of the plaintiff, as well as those around her, seems to me to be relevant on those issues, and we have not yet had the opportunity, of course, to examine the parents on this kind of an issue. And this

00401

is discovery, it's not being offered at this point as evidence at trial.
JUSTICE DOSSE: If you are going to get to the frequency of use during this period, during high school, I'd suggest you do it directly and --
MR. BARRON: I will try. That's what I thought --
JUSTICE DOSSE: Rephrase the question, if you would.
As to the other -- the other -- the reminder of the objection, at this point would be overruled.
MS. CHABER: Okay. And I would, you know -- obviously I've let it go a long time before I've raised that, and I would ask the Court -- I assume that's without prejudice to further questioning and reraising it and --
JUSTICE DOSSE: Exactly.
MS. CHABER: -- raising issues.
JUSTICE DOSSE: You can -- there won't be a continuing objection, but if you feel that you want to object again, feel free to do that.
MS. CHABER: Okay. Thank you.
MR. BARRON: Q. I would like to have you tell me what the frequency was when your mother would allow to you have these screwdriver drinks.
A. I can't honestly tell you. It was not on a regular basis, and it could have been any time when the

00402

family got together for, you know, family get-togethers or -- or when -- whenever.
It wasn't on a -- every Friday night. It wasn't every Friday night. It was every now and then. That's as best as I can answer.
Q. How old were you? Or another way of trying to find out is, in what grade were you when this first happened, that your mother allowed you to have the kind of drink that you mentioned?
A. A screwdriver? I -- I don't know. Probably the -- the -- my last year of school, I would imagine. And I am guessing at that.
Q. Now, you married soon after graduation, is that correct?
A. Yes.
Q. And you married whom and on what date?
A. Dean Moore. I believe it was in June of '76. Am I right?
Q. And -- and by the time of your graduation and soon thereafter, your marriage to Mr. Moore, you were still smoking?
A. Yes.
Q. And by the time of your graduation, had you ever had a plan that you were going to smoke for only a certain

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period of time, you were going to quit at a certain age, or anything like that?
A. A plan?
Q. Yes.
A. No.
Q. Or an idea, a serious consideration, anything, or were you just sort of taking things as they came?
A. I don't know. I -- I didn't spend my future thinking about a plan for cigarettes.
Q. Okay.
A. I had no plan.
Q. So when you married Dean Moore in June of 1996, he was already himself a smoker, as I understand it?
A. Yes.
Q. And he was smoking Marlboros at that time?
A. I believe so.
Q. Did he remain a Marlboro smoker for as long as you and Mr. Moore were together?
A. I believe so.
Q. And when were you and he no longer together? I don't mean the technical formal, final dissolution of marriage papers; but from your standpoint, when did you split?
A. I -- I think, from remembering, it was two or three years later. I'm really bad at ...
Q. Was there ever a period, while you and Mr. Moore were still together, that he made what you thought was a serious attempt to quit smoking?
A. A serious attempt?
Q. Yes.
A. Not that I remember.
Q. Did he ever say, while you and he were still together during those two or three years, that he was making what he thought was a serious attempt, even if you, for example, didn't think it was serious?
A. He made a suggestion to quit smoking at one time.
Q. But didn't follow up, as you saw it, in what you would consider to be a serious way, is that right?
A. No.
Q. What I said was correct?
A. I think so.
Q. And was that true for you also, that during those years you also did not make what you thought was a serious attempt to quit?
A. Not that I remember.
Q. And bear with me for a minute, if you will. I am trying to locate that amended answer to the written questions so I can try to make sure that we understand the timing as reflected here in the cigarette brands smoked.
This amended answer to question number 3 of the written questions, the first set of those that were sent --
MS. CHABER: I think that's 23, Counsel.
MR. BARRON: You think what?
MS. CHABER: Isn't it number 23?
MR. BARRON: Did I misspeak? I thought you said 23.
MS. CHABER: I thought you said 3, but maybe I didn't hear it.
MR. BARRON: Let me start over and make sure we are clear, then.

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Q. In the amended answer to question number 23 of the first set of questions, it has here in the answer under paragraph E, the statement that quote, approximately 1980, question mark, through approximately 1984, question mark, Camel Lights.

Is there any association between when you and Mr. Moore split and when you started to smoke Camel Lights?

A. Estimation?

Q. In time.

A. I started smoking Camel Lights when I was with Wesley Imhoff, not Dean Moore.

Q. Okay. And you were with Wesley after you and Dean Moore, Mr. Moore, had split and gone your separate ways?

A. Yes. I had smoked Marlboros with -- with Dean when I was married with him. That's -- that was what this was.

00406

Q. Now, written answers that were provided indicate that you married Mr. Imhoff on August 9, 1990. Does that sound about right?

A. Yes.

Q. And Mr. Imhoff, was he a smoker?

A. Yes.

Q. And what brand of cigarettes did he smoke at that time?

A. I believe Winstons.

Q. And so long as you and he were together, did his brand remain the same, meaning Winston?

A. He also smoked Salem or Kool, or something like that.

Q. Along with the Winstons, or in substitute -- substitution for them for a period?

A. I don't know. Whenever his whim filled him. I --

Q. And when was it that you and Mr. Imhoff split ways? Again, not formal resolution by divorce and Court Order, but --

A. I don't --

Q. -- from your standpoint went your separate ways?

A. I don't know. One or two years. It was an off and on thing.

Q. During that time that you and he were together before you went your separate ways, did Mr. Imhoff ever

00407

make what you thought was a serious attempt to quit smoking?

A. No.

Q. Did he ever say to you that he was making an attempt which he thought was serious to quit smoking?

A. No.

Q. During that same period that you and Mr. Imhoff were together before you and he went your separate ways, did you make what you thought was a serious attempt to quit smoking?

A. No, not that I remember.

Q. Now, to try to keep these things in context in terms of when they happened, in terms of time, you mentioned in answer, I think to some questions your lawyer asked you, that although you weren't, as you called it, a star athlete, you did like to run.

A. Yes.

Q. And was there a time when you not only just liked to run, you tended to be involved with it or tried to run with some frequency?

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A. Mostly just in junior high school.
Q. And so you -- you stopped being in any way a serious or semiserious runner, even, after you left junior high school?
A. Right. I was not a serious runner.

00408

Q. I am looking at my notes and your answers to try to get us in the right time period for the next series of questions.
When you and Mr. Imhoff split and went your separate ways, to where did you go to live?
A. My mother's house.
Q. And for how long did you remain there?
A. Oh, I don't know. Off and on, because I -- I lived in a few different places.
Q. And by your "mother's house," could you be specific, in terms of city and address?
A. [DELETED]
Q. The same one you had lived in while you were in high school?
A. Yes.
Q. And for how long did you treat that as, in essence, kind of your home base for living?
A. Until I married -- until me and Leonard got together, my present husband.
Q. Okay.
A. I used that as a permanent address.
Q. And that was, when, that you and your present husband married?
A. When we lived together or when we first got together, yes.

00409

Q. Okay. I'm trying to find a date only.
A. It was in '83 or -4, I believe, that -- '83.
Q. So if I am keeping track of dates right, and I don't want to confuse you on dates, and if you can't answer this just tell me you can't -- there wasn't really a long period after you and Wesley went your separate ways, Wesley Imhoff, and when you hooked up with your present husband?
A. "Hooked up"?
Q. I don't mean that in a derogatory way. Got together with.
A. Right. The -- you mean when -- when I wasn't with Wesley, when we divorced or I -- I don't know what you mean, because --
Q. It's all right. I can reconstruct it from the dates that I have in the answers to the written questions. I am just trying to keep things in chronological order, if I can.
A. Okay.
Q. I was just trying to establish that you and Mr. Imhoff didn't split, and then you lived with your mother for ten years before you started --
A. No, I -- no. I didn't live with her for ten years.
Q. It was a relatively brief period, is what I am saying?

00410

A. I -- I -- in between Wesley and Leonard, I did have a life in between there, if that's what you are getting at. I -- I'm not sure what kind of answer you want there.
Q. I really don't want any answer. I am just trying

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to establish the timing of things so it would make sense.
A. But I used my mother's address as a permanent address. I think that's the kind of answer you wanted.
Q. And again, to help me out, the date of marriage to your present husband, Leonard, was when?
A. May 3rd, 1986.
Q. Whenever it was that you and your present husband, Leonard, became devoted to spending total time with each other as opposed to spending time with other people of the other sex --
A. That was 1983.
Q. -- in relationship, whenever that was.
A. 1983.
Q. At that time, was Leonard a smoker?
A. Yes.
Q. And what was Leonard smoking as a brand?
A. Marlboros.
Q. And did Leonard remain a Marlboro smoker from the time that we are talking about, all the way up to the present?

00411

A. Last year.
Q. Last year he quit?
A. Of February.
He also smoked Camels so he could collect the Camel bucks. That is when they started doing -- the Camel cash is when he would also purchase -- if there was something he wanted, he would choose to purchase Camels, depending on his whim at the time for Marlboro milds or Camel cash.
Q. Now, between the time that you and Leonard got together and the time that you and he married, did Leonard ever make, during that time, what you thought was a serious attempt to quit smoking?
A. Be -- excuse me. Between what time?
MS. CHABER: '83 and '86, when you got married.
THE WITNESS: I don't think so.
MR. BARRON: Q. Did he ever say to you that he was making what he thought was a serious attempt?
A. Not that I remember.
Q. And you did not at that time make a serious attempt, is that correct?
A. Correct.
Q. After you and he got married on May 3rd, 1986 --
A. '8 -- yes.
Q. You scared me there.

00412

A. You are getting me mixed up. You were talking about '83. Okay. '86. Yes.
Q. Okay. Between your marriage -- between the time of your marriage to Leonard on May 3rd, 1986, and up to that time that you said was in 1988 where you made this serious attempt one time that lasted about two weeks, had you made any other, what -- nonserious or insignificant attempts to quit?
A. Insignificant, yes, I would say.
Q. Okay. What do you mean by "insignificant"?
A. Saying I would try not to smoke. This is when I was pregnant with my first child, and thinking I wouldn't smoke; but within the hour I would be smoking. I would say that's insignificant.
Q. Now, when did you become pregnant with your first child?

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A. In 1988, I believe. I -- I can't tell you the exact moment.
Q. Obviously -- before?
A. Excuse me. I would be pregnant -- he was born in '88 of January, so I was pregnant in '87. I think that's -- if I did my math right.
MS. CHABER: Wasn't he born in January of '89?
THE WITNESS: Oh. I'm sorry. Now I am making him older.

00413

MS. CHABER: He's ten?
THE WITNESS: Yes.
MS. CHABER: Okay.
THE WITNESS: Okay. I was pregnant in 1988. I'm sorry.
MR. BARRON: Q. So this is what I am trying to get clear, if I can. Did you make this first serious attempt to quit smoking, the one that lasted about two weeks, before or after you realized that you were pregnant with your first child?
A. After.
Q. Before or after the birth of your first child?
A. It was after the birth.
MS. CHABER: She had testified '89, Counsel, actually, yesterday or the day before, whenever that was on the quit attempt.
MR. BARRON: We may have a couple dates in the record, this may be why.
THE WITNESS: Oh, why -- try having brain radiation. It kind of has an effect on your thinking process.
MR. BARRON: Q. And that's why I'm trying to use events here, and in many other cases I have tried to use events with you as opposed to raw dates --
A. Right.

00414

Q. -- or years, and then we try to tie it back to years, based on what we have here.
A. And I am trying to be right.
Q. So the first serious attempt was some time after the birth of your first child?
A. Yes.
Q. Which was Troy?
A. Yes.
Q. And the second serious attempt was the one you made after being diagnosed with lung cancer that -- excuse me -- the second attempt that you made was after the question of chronic bronchitis came up?
A. Yes.
Q. And you were ultimately successful with that attempt, correct?
A. Yes.
Q. Now, was it before the birth of your first child, Troy, that you came across this literature or article that talked about cigarettes, or smoking as being involved with -- or potentially involved with low birth weight?
A. It could been while I was pregnant or after the birth. I just -- it was in a baby magazine, if I remember correctly, that that's where I read about it.
Q. Well, earlier, I think in answer to your lawyer's questions, I think even later on, you talked about it being

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before the birth because you had some idea that -- and you

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used the word -- "thank God," because you were going to have a smaller baby?
A. Well, I didn't know I was going to have a smaller baby.
Q. But that was --
A. I was just saying it was while I was pregnant or after he was born, because that's when I started getting the baby magazines.
Q. Now, did you have a doctor that helped you with your pregnancy of your first child?
A. Yes.
Q. And what was his or her name?
A. Dr. Jeffrey Richardson.
Q. And did he help you with the birth of any other children?
A. Yes.
Q. Was he a doctor that you picked for yourself?
A. He was recommended to me, yes.
Q. And you liked him well enough that you stayed with him for your other children?
A. Yes.
Q. Was he a doctor that you felt comfortable with?
A. Yes.
Q. A doctor that you felt that you could ask a

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question of if you had one, about your pregnancy or your anticipated delivery?
A. Yes.
Q. Did you ever ask him what significance, if any, low birth weight might have, when it was being reported that low birth weight could be the result of smoking during pregnancy?
A. No.
Q. Did you tell Dr. Richardson, during your pregnancy with what turned out to be Troy, that you were a smoker?
A. Not to his face, no.
Q. To whom did you tell this to?
A. Only on the paperwork I filled out.
Q. And what do you remember saying on the paperwork?
A. That I smoked.
Q. Anything else? For example, did it ask you how much you smoked or for how long?
A. It may have. I don't recall the specifics.
Q. Did he, or anybody at his office, ever say anything to you, or suggest anything to you about whether it would be a good idea or a bad idea to continue smoking during your pregnancy?
A. No.
Q. Any pregnancies?
A. No.

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Q. Did Dr. Richardson, or anybody else associated with his office, give you any material, like pamphlets or literature or articles or telephone hotline, or anything, that you know had any information about whether smoking was a good idea for someone who was pregnant or not?
A. Not that I'm aware of. They may have had literature sitting in the office or something, but nobody ever handed me -- not that I remember.
Q. And if they had literature in the office, you did not read the literature?
A. I don't remember.
Q. Do you remember seeing literature in the office?

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A. Literature? I --
Q. Well, here's what I mean. I don't mean to get hung up on a --
A. In particular, no. In something particular, no.
Q. Okay. Well, not something particular yet.
I don't want to have there be any confusion because of a word that we happen to pick.
Let me just tell you what I am talking about. There are doctors who have offices, that when you walk in, they have visible for people who walk in, things that have to do with people or their health or diseases, information pamphlet-type things.
My question is: Did your Dr. Richardson ever have

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any of that available in his office anywhere for patients?
A. I imagine he does.
Q. Why do you imagine that?
A. Well, because you just told me doctors have it in their office.
MS. CHABER: Okay. Well, don't make assumptions.
MR. BARRON: No.
MS. CHABER: And don't speculate about things.
MR. BARRON: Q. I don't want you to assume, and I don't know Dr. Richardson --
A. I'm --
Q. I'm not saying all doctors do; but you were there for four children, and I assume you went a couple times at least with each child to go see Dr. Richardson before delivery.
A. I'm sure he had pamphlets, but I didn't go in there and pick them up and read them. When I went in, I would pick up a magazine.
Q. Did you go anywhere else to try to inform yourself about what things might be good or what things might be harmful for either you, as the expectant mother, or for your child during the pregnancy?
A. What do you mean by "go anywhere else"?
Q. Go to a magazine shelf and pick out a magazine that had an article about pregnancy and what kinds of

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health things would be good for people, and what kind of health things would be bad for people, be they mother or child; go to the library, do anything like that at all?
A. No, not that I recall doing anything specific.
Q. Did you inquire of anybody, ask anybody besides Dr. Richardson and his office people, if they had an idea what might be good for you as the expectant mother or good for your child that you were carrying before the delivery of any of your children?
A. Not that I can think of.
Q. Or ask what might be harmful to you as the mother or harmful to the child potentially?
A. Not -- not that I can think of.
Q. Now, was Troy, your oldest child, delivered by C-section?
A. Yes.
Q. And did you have C-section thereafter, or did you deliver normally thereafter?
A. I delivered normally.
Q. Did you deliver at the same hospital all four children?
A. Yes.
Q. And that hospital was what?

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A. Community Memorial.
Q. Located --

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A. In Ventura, California.
Q. While you were at that hospital during the times you were pregnant, or the times you were delivering, did any person at the hospital, who seemed to be a health care provider, meaning a doctor or a nurse, ever say anything to you that suggested that they thought that you should not smoke, either for your own health or for the health of your child you were carrying, or one to be -- that had already delivered?
I'll break it down for you. I didn't want to loose -- you know, that's fine. I had a lot of people on the end of the list, so I don't want to confuse the witness.
At any time while you where at the hospital for the pregnancy of -- the delivery of any of your children --
A. Yes.
Q. -- did any of the hospital people, doctor, nurses, ever say anything to you that made you think that they were suggesting that you ought not to smoke for the health of either the child you were carrying, or of one you had just delivered?
A. Not to smoke? I had -- Dr. Jung had asked me if I was going to quit smoking, and I believe that was -- I'm guessing after -- when Trevor was born.
Q. And who is Dr. Jung?

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A. He was the children's doctor.
Q. The pediatrician?
A. He was a family doctor.
Q. I'm sorry.
A. There is a difference.
Q. There is a difference.
And his first name is?
A. Ken, K-E-N.
Q. Has he been the family doctor who has been your youngsters' doctor?
A. Part of the time, yes.
Q. And where was or is his office located?
A. In Ventura.
Q. Have you told me all that was said by either him or you when he brought the subject up?
A. He just asked me. He said "Now, are you going to --" he said, "Are you going to quit smoking now?"
And I told him that I would -- I would think about it. Because he said, you know, now, you -- "You've got a family you are doing."
And -- and -- I said "Well, I'll think about it."
I never said "Yes, I am going to," or anything like that.
Q. This is --
A. He made a suggestion.

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Q. Okay. And this is with the birth of Trevor?
A. I believe it was Trevor.
Q. Was it during your pregnancy and before delivery or after your delivery?
A. It was after -- after he was delivered.
Q. Was it in the hospital or in his office, meaning Dr. Jung's, that --
A. In the hospital, because he ran to the window to

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watch the -- the helicopter land. He was like a big kid.
Q. Did that have something to do with your situation, or just an unrelated hospital matter?
A. No. It was just -- he was just excited that a helicopter was landing on the roof.
MR. BARRON: Do you want to take a break?
MS. CHABER: The Court Reporter could use one.
MR. BARRON: We have been going for awhile. That's fine.
VIDEO OPERATOR: Going off the record. The time is 2:34.
(Recess taken from 2:34 to 2:59.)
VIDEO OPERATOR: Back on the record. The time is 2:59.
MR. BARRON: Q. Have you told me everything that was said to you by Dr. Jung, or said by you to Dr. Jung during this time when he talked to you about smoking?

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A. As much as I can recall.
Q. Do you believe that there were other things that were said by him that you now no longer recall?
A. He just came in to check the baby over.
Q. Do you believe that there were other things said by him concerning smoking that you now no longer recall?
A. I don't know. I don't think so.
Q. Do you think there were things said by you about smoking to Dr. Jung that you now no longer recall?
A. I don't think so.
Q. And Trevor was born January 18, 1991, is that right?
A. Yes.
Q. Now, this episode where you and your husband were -- and these are not your words, but kind of crabby or short with each other during a trip.
A. Yes.
Q. That was during this one serious attempt you made before the one with the chronic bronchitis, is that correct?
A. Yes.
Q. And did you and Leonard commence the effort to quit at exactly the same time, or did one person start before the other?
A. I believe it was on the same morning that we just

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quit smoking, I think.
Q. And would you list everything that you or he did in an effort to quit --
A. What do you mean?
Q. -- when you first made the effort?
A. List?
Q. Yeah. Tell me all the things that were done.
A. I -- I just didn't light up. I -- I don't know what you mean by "list."
Q. Well --
A. I don't know exactly what I did that day. I do remember the day I quit, I went to the grocery store and I was very dizzy very, very dizzy, and that lasted quite awhile. That was the withdrawal symptom, I suppose.
Q. I am going to ask you some questions so that we have described, with as much specificity as maybe we can, with as much dough tail as maybe we can, this serious attempt to quit that you and Leonard made.
First of all, did you and he plan, together, that

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you were going to quit before either one of you made the first physical effort to do so, or did it just kind of happen as a spur of the moment?
A. I think it was the night before he had just said "Let's quit smoking tomorrow," if I recall correctly. I don't remember making a grand plan of something, just that

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tomorrow was -- nobody was going to smoke.
Q. And did you at first agree, disagree or say you weren't sure.
A. I -- I agreed. I didn't...
Q. Did you ask in any way something along the lines of "Golly, Leonard," or "Golly, honey, what's making you do this?"
A. No, not that I remember.
Q. Or what came over you or why all of a sudden are you bringing this up or anything like that at all?
A. I don't remember any specific -- the specific conversation that involved it.
Q. Did he ever at that time that he brought it up the night before, tell you what made him all of a sudden bring this up?
A. I don't know if it was all of a sudden. I just told you I don't remember the specifics of -- of why exactly we planned right then to quit smoking, so I can't tell you what he said to me exactly.
Q. But you understood the idea was that both of you would, the following morning, not have a cigarette and try to refrain from having cigarettes until, in effect, you had quit --
A. Right.
Q. -- both of you?

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And so the next morning you both arose, and at the point where you would normally want to have a cigarette or normally would have a cigarette, you did not, is that it?
A. I did not.
Q. And he acted the same way and he did not, is that it?
A. I guess. I went with him. I think he went to work that day, if I remember.
Q. And did you remain home that entire day?
A. No. I -- I went to the grocery store.
Q. Other than going to the grocery store, did you remain at home?
A. I don't remember. I just remember being in the grocery store and -- and being very ill from being dizzy.
Q. How soon after you arose that morning was it that you found yourself dizzy and, as you described it, feeling very ill at the grocery store?
A. With -- within a couple hours, I would estimate.
Q. And how long did you remain dizzy and very ill, as you've described it?
A. Off and on over a period of -- of days. I couldn't tell you how many days.
Q. And when you say "off and on," do you mean that sometimes during the day you wouldn't feel dizzy and ill, and then it would come back again, and then you would feel

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dizzy and ill again?
A. I don't know that. I don't know how constant it was because it -- it's been awhile.
Q. Now, when you arose that morning, after you and

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Leonard had said that you were both going to not smoke and to try to quit, did you still have cigarettes available in the house?
A. I don't think so.
Q. Why not?
A. I think he threw them all away. I don't -- I don't remember exactly what were done with them, but I don't think there were cigarettes in the house.
Q. Do you have any knowledge or understanding of when he threw them away, if he had done so?
A. No, I don't.
Q. Had he thrown away both his and yours?
A. I don't know. I am just saying that I assumed that there wasn't any in the house because I didn't -- I didn't smoke any, so I don't -- I don't know, actually.
Q. Did you normally, up to this point, carry cigarettes in your purse, or in some other personal item of yours that you'd have with you during the day?
A. Yes.
Q. And where was it that you would carry the cigarettes?

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A. I don't know exactly. I may have kept them in the diaper bag or -- or or in a purse.
Q. Did you have a cigarette container at the time, meaning something that would hold the pack of cigarettes?
A. I -- I don't think so.
Q. Or a cigarette case?
A. I don't think so.
Q. When you arose that morning after having agreed with Leonard to not smoke and to try to quit, did you not even have available to you the cigarettes that normally were kept by you, either in a diaper bag or in your purse?
A. I don't know.
Q. You don't remember one way or another?
A. Yeah. I don't -- I -- honestly, I don't remember that, whether there were cigarettes in the house or not. I -- I can't really say, because it's been so long that I don't --
Q. Did you ever throw away any cigarettes after you had told Leonard you agreed to not smoke and to try to quit?
A. I don't remember.
Q. How long after was it that you and Leonard took off on this trip you mentioned during which you had a little spat or were crabby, or however you want to describe it?

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A. It was more than -- you know, I'm not sure, but it was within the week. The first week, I believe.
Q. To where were you going?
A. We went to Yosemite, Sequoias.
Q. And remained there for how long?
A. I believe it was two days -- two or three days.
Q. And hiked around and saw the sites?
A. No, we didn't hike around.
Q. I assumed something I shouldn't.
What did you do in Yosemite during those two days?
A. We just went up there and --
MR. BARRON: We are having some background noise that might interfer here. We better fix it. Your lawyer will figure out what's going on.
VIDEO OPERATOR: Going off the record it's 3:10.

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(Recess taken from 3:10 to 3:16.)
VIDEO OPERATOR: We are back on the record. The time is 3:16. Going off the record. The time is 3:16.
(Discussion off the Record.)
VIDEO OPERATOR: We are back on the record. The time is 3:17.
MR. BARRON: Q. Well, I think we all hope we have the air conditioning problem solved.
I think when we broke to try to fix the air conditioner, I was talking about your serious attempt with

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your husband, Leonard, that both you and he were making to quit, and we were talking about you folks going off to Yosemite.
A. Yes.
Q. And I think I assumed wrongly, that you guys hiked around, and I was about ready to find out what you did over there in Yosemite during that trip.
A. We just kicked back around the campfire area.
Q. And you were there for about how long again?
A. I think it was two or three days.
Q. And was this a trip that had been planned before your husband Leonard brought up the idea of trying to quit smoking?
A. I think so.
Q. And between the time that he brought it up and you and he made the first start on the effort, and the time that you folks went off to Yosemite, did you call any medical doctor about your reaction to not smoking or for any guidance or help?
A. No.
Q. Did he?
A. No.
Q. Did you call any friend or family member about that?
A. No.

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Q. Did he?
A. No.
Q. Did you call anyone that might have been available, if there was such a person or organization, to help people with the effort to quit smoking?
A. No.
Q. Before you and Leonard went off to Yosemite, did you or he try any product that provides nicotine as part of the product, like gum?
A. No.
Q. Did you and he talk about that as a possibility before you left for Yosemite?
MS. CHABER: Lacks foundation, that it was available.
JUSTICE DOSSE: Sustained.
MR. BARRON: Q. Now, when you were in Yosemite, was it just you and Leonard, or did you have friends or children or anything with you?
A. We had Troy with us.
Q. And Troy was the oldest?
A. He was our only child.
Q. That's right. How old was he then?
A. He was sitting in a walker in the pictures, so I would assume he was under a year old or --
Q. Do you have any --

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A. -- around in there.
Q. I'm sorry. I thought you had finished.
Do you have any pictures here of that time that you were in Yosemite?
MS. CHABER: I thought there was.
THE WITNESS: I don't know. I have one at home but I don't know if I brought it. The ones because these are pretty much in order here. No. This was later.
MS. CHABER: Okay. I knew there was one camping.
MR. BARRON: Q. The one that you remember that is at home, it was taken in Yosemite?
A. Yes.
Q. And in the campground, or somewhere else?
A. In the -- in the campground.
Q. And it shows who in the picture?
A. Me and Leonard and -- and my son, Troy.
Q. And who took the picture? Just some other camper?
A. The people, yes, in the campground next to us.
Q. Now, during the time that you were in Yosemite, what physical problems if any did you have that you thought was caused or contributed to by the fact that you were now not smoking?
A. Physical problems?
Q. Yes.
A. Just the uncontrollable urge to smoke, the

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irritability, the -- it was constant mood swings, and it -- it was a trip from hell almost, because of the emotional and physical things that were going on at the time.
Q. During this approximate two-week period or so when you were making this serious attempt to quit, were there times when you were feeling better than others?
A. I guess so.
Q. Well, I don't want you to guess.
A. Well, I don't -- I don't know.
Q. You don't remember?
A. Yeah. It's -- you know, it -- roller coaster ride, I guess. I -- it was awful.
Q. Well, what I am trying to find out is, for example, from the time that you quit to the time you started smoking again, did, from your standpoint, your problems seem to get worse and worse with each passing day, did they get worse for awhile and then get better? Did they go up and down as you just described it in a roller coaster more than once before the end of the period, or just what?
A. It was -- I would -- to honestly answer, it was a roller coaster ride, where sometimes it was just -- you are climbing the walls and -- and just fighting the urges that my body wanted to smoke.
Q. Did it not seem to you that in the last several

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days before you started smoking again, you actually were feeling better than you had during the first several days that you were trying to quit?
A. I can't -- the dizziness was -- was not there, I remember, but going to a McDonald's and smelling cigarettes in there when we went -- were coming home just did it. Brought every -- you know, made it just trigger more want, the cravings. Because everybody in the -- in the McDonald's restaurant there was -- not everybody, but there was people in there smoking, and it was a -- a -- just kind of started everything up again.

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Q. Are you indicating, then, that after awhile, the physical symptoms improved and stayed improved, but your craving did not seem to diminish?
A. The dizziness had gone away, but the irritableness and the craving did not.
Q. After a week or ten days had passed, besides the craving, especially when you were around smoke like at McDonald's when other people were smoking, and except for the irritability, was there anything that still remained that you felt was a problem from the fact that you were no longer smoking?
A. I -- I don't understand what you -- what do you mean, that remained?
Q. Remained as a problem for you physically.

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A. I -- I still wanted to smoke.
Q. Anything else?
A. I don't know what else you mean.
Q. I am not meaning anything.
A. What --
Q. I am just trying to find out from you what you felt or believed.
A. "Felt or believed," I'll -- all I know is it was sheer hell going without smoking.
Q. And I'm trying to find out what was it that made it, from your standpoint, as you call it, "sheer hell."
And I am trying to find out if there was anything after a week or ten days passed, in addition to the craving that you described for wanting a cigarette, especially when you smelled smoke coming from others, and other than the irritability that led you to describe it as "sheer hell"?
A. Anything else --
Q. Anything else of a physical or mental nature, other than what I've just said?
A. That I wanted a cigarette very badly.
Q. Anything else?
A. I don't know what else you expect me to say. I --
Q. I don't expect you to say anything.
A. Well, then, I answered your question then, I guess.

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Q. And when you say "wanted a cigarette," that's another way of saying you craved a cigarette?
A. Yes. And as soon as I was able to get to one, I smoked it.
Q. Now, as you understand it, who is the first one to go back to smoking, you or your husband, Leonard?
A. Me.
Q. And did Leonard, in fact, go back to smoking at some time after you did?
A. I think so, yes.
Q. But you are not sure?
A. Well, in that time period, I don't remember -- I know I started smoking back up.
Q. But you know --
A. I can just speak for myself on that.
Q. And I know you can't be sure because you weren't with him all the time and people can forget or fib, even husbands, but as far as you understood it, was there a time after you went back and your quit attempted failed that he, Leonard, appeared to still have been successful in his quit effort?
A. I think he -- he quit longer than me. If I

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remember correctly, that he had lasted longer than me.
Q. And if you remember correctly, how much longer did he last than you in his quit attempt?

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A. You know, I'm not sure. Maybe two -- two -- a month or two months. Maybe. I -- I'm not sure.
Q. After Leonard went back to smoking, whenever it was after this quit attempt, did he --
A. Yes.
Q. -- what you believed to be another serious attempt to quit before this period in February of 1998 where you both went to quit again
A. Yes.
Q. Did he make more than one other serious attempt before the February 1998 attempt?
A. I only remember him stopping with me, and then another attempt after that.
Q. Meaning another attempt after that, but before the February 1998 one?
A. Right. Before the successful ...
Q. And can you place in time or relationship to events, when it was that Leonard made his, in your time together, second serious attempt?
A. His -- it was -- I believe my daughter Elizabeth was two or three and he had quit for three months.
Q. During this second occasion?
A. Yes.
Q. Your daughter, I think, was born in August of '93. So you are talking about the '95 to '96 time period,

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roughly?
A. Yes, yes, it was in there.
Q. And in that effort, did he do anything different or additional than he had done the first time in his attempt when he was quitting with you, as far as you know?
A. I -- I don't know. I think he just quit. I don't know what he did. I'm not aware that he did anything special.
Q. When your husband Leonard indicated, or you learned that his first serious attempt that was made with you while you were together to quit, had failed, or that he had decided to go back to first, what did he tell you was the reason why he started smoking again?
A. The first time he got mad at me because I asked him to rake up the dog poop and he didn't want to.
Q. And --
A. It was an excuse, I guess. You asked.
Q. Okay. Can you explain in a little more detail what not -- not the raking part -- but how that relates to him going back to smoking? I mean, was -- I don't quite see the connection, so if you could connect it for me.
A. When you have two large Rottweilers in the back yard there was a lot of poop back there. He was not in the mood to rake up dog poop and I threw a fit to ask him to clean it up. Is that the details you wanted?

00439

Q. But I'm still having trouble connecting with how or why that causes Leonard to go back to smoke. Is it because he's trying to show his being annoyed with you and, therefore, he's going to do something that he knows you don't want him to do, or what? That's what I'm not --
MS. CHABER: Calls for speculation.
JUSTICE DOSSE: Sustained.

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MR. BARRON: Q. Well, did -- did you ever conclude what the relationship was, if any, between your asking him to do that chore and his beginning to smoke again?
A. Sure. I guess it made him mad and he could blame it on me, in his own mind. I mean, in a husband and wife thing, that's -- everybody knows those kind of situations.
Q. What about the time that your husband Leonard went back to smoking after his second serious attempt when you and he were together, did you ever come to any understanding, or did you ever learn anything about what caused him to return to smoke?
A. Yes. He -- he was very upset. His mother almost died and he came home in -- came home smoking.
Q. Now, I'd like to ask you whether Dr. Jung --
MS. CHABER: Are you okay?
THE WITNESS: Yeah. I'm fine.
MR. BARRON: Q. I'm sorry. I was looking at my

00440

notes. Are you all right?
A. I'm fine. I was just rubbing my eyes.
Q. We all know the ground rule that I've tried to make sure you understand, which is I -- if you are getting tired, or physically or emotionally finding it difficult, just tell us and we'll break for a recess or for all time today. Okay?
A. Okay.
Q. Was the Dr. Jung that we talked about earlier, a doctor who saw you at Community Memorial Hospital of San Buena Vista?
A. San Buena Vista?
Q. Yes.
A. I don't know what San Buena Vista is, but a doctor Ken Jung was a family doctor.
Q. Community Memorial Hospital is a hospital you've heard of?
A. Yes.
Q. And in what town or community is it located?
A. Ventura.
Q. Is there a Buena Vista section of Ventura -- San Buena Vista section of Ventura?
A. Maybe they use the whole word of San Buena Ventura for the city. I have -- I don't know.
Q. But the community -- excuse me. Community

00441

Memorial Hospital, the one in Ventura, is the place where Dr. Jung talked to you about smoking?
A. Yes, I -- yes.
Q. Do you remember him, or any doctor actually including, as part of their instructions to you when you were being discharged from the hospital, instructions, either verbally or in writing, that you should not smoke?
A. No.
Q. When you were being discharged from hospitals with the birth of any of these children from the Community Memorial Hospital, were you ever given a piece of paper to go with you that contained any advice or instructions, what hospitals sometimes call discharge instructions or discharge sheet?
A. I believe so.
Q. Was it your practice to read those instructions or recommendations or not?
A. Not -- I don't recall.

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Q. Do you recall whether -- strike that.
Was there at the hospital, a health care person, like a doctor or a nurse or technician, who went over the instructions with you, or recommendations with you, in other words, pointed them out to you?
A. They just have you sign the papers. I -- I did what I call drive-through delivery. I paid for it myself.

00442

I paid for it myself. You are there as short a time as possible. They kind of herd you in and herd you out, so I --
Q. Other than Dr. Jung, and up until the time in February of '98 when you had the chronic bronchitis, did any other doctor or health care person recommend to you, suggest to you, indicate to you that you should not smoke?
A. Not that I'm aware of. Not that I remember.
Q. Do you remember a Dr. James Halverson?
A. Oh, yes.
Q. Did you see him at the Ojai Valley Medical Center?
A. Yes.
Q. For what reason?
A. That was when I had a rapid heartbeat.
Q. What did you eventually learn as to why you had a rapid heartbeat?
A. Actually, he -- they did not find the source, but they -- he told me to quit -- cut down on caffeine, and he did tell me to quit smoking, that it would help, but he said he also knew that was a hard thing to do.
Q. Did he also tell you, though, he knew it could be done and that other people had done it?
A. He just suggested that I quit.
Q. Did he also tell you that even though it was difficult, he knew other people who had done it?

00443

A. He didn't go into detail.
Q. Did you ask him --
A. No.
Q. -- to go into detail?
A. No.
Q. Also, isn't it also the case that a Dr. Jung, J-U-N-G, or Jung --
A. Ken Jung.
MS. CHABER: He's the same one.
MR. BARRON: Q. Is that same one?
A. Yes. He's the same doctor.
MR. BARRON: Q. Did he tell you the same thing, that is, that you should stop smoking, when he was involved with a child of yours that was born in 1996?
MS. CHABER: This was asked and answered. This is what she had gone through. This is the Dr. Jung.
MR. BARRON: Okay. I see what you are saying.
THE WITNESS: I'm sorry. I forgot about Dr. Halverson. This stuff kind of all runs together.
Q. I'd like to switch subjects for a minute and go back in time. I'm telling you that so I don't lose you, or at least I am going to try not to loose you as to where I am going. There was a period of a high school that you went on to junior college, correct?
A. To truck driving --

00444

Q. Okay. Wasn't that at Oxnard Junior College?
A. Yes.
Q. Okay. The reason I was looking that way, your

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lawyer looked at me as if I was wrong, and I can be -- I just wanted to make sure that I was understanding it.

The truck driving school was at Oxnard Junior College --

A. Yes.

Q. -- is that correct?

A. Yes, it was through Oxnard Junior College.

Q. And did you acctually take the course by taking units at the junior college? Do you know what I mean, junior college units?

A. Yes, but I -- I don't believe that there was a grade involved.

Q. And you were there for how long in order to complete the truck driving program?

A. I took a summer course, and I believe a regular -- I -- I don't recall if I took a summer course and two -- two classes after that or the -- the -- I took a summer course and then a class, is I think how it went, or vice versa.

Q. Did the course, or class, or both, involve, to any extent, instruction about safety procedures?

A. Yes.

00445

Q. About safety instructions?

A. Safety instructions involving driving?

Q. Yes.

A. Yes.

Q. About government regulationss?

A. I suppose at some point for -- government regulations on what?

Q. Well, I didn't take the course. I'm only asking questions.

A. I'm telling.

MS. CHABER: She's telling you it's vague --

MR. BARRON: So -- okay. I'm sorry. I'll let your lawyer finish.

MS. CHABER: It's vague and ambiguous, a course on government regulations.

MR. BARRON: No. I didn't say a course on it. I said -- or meant to say, anyway, during the course or class summer, and otherwise that you took on truck driving at Oxnard Junior College, was there any instruction concerning government regulations?

A. I -- I don't -- I couldn't tell you. Maybe in -- involving truck driving, yes; but I couldn't be specific on what government regulations you are trying to get at.

Q. Did you learn anything about government regulations involving safety for trucks or truck driving?

00446

A. I can't be specific on any regulations that they taught me except what was in the course. Again, I --

A. I -- I can't be specific with you. I don't know where you are coming from on this, how it relates to any -- anything with smoking.

Q. Were you informed about or instructed about any government regulations that related to safety of trucks or the equipment associated with trucks?

A. I still don't understand what you mean by that.

Q. I'm not going to quiz you on what the regulations were, if you were instructed on them. I am not looking for a particular regulation.

I am just asking you, at any time during the course or class, or both, that you took on trucking at the

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junior college, was there any instruction at all on government regulations that applied to the trucks or equipment associated with them?
A. I can only say I'm assuming there was.
Q. Did you believe that any of those regulations had a safety purpose for either the truck driver or members of the community?
A. I don't know. I just took --
MS. CHABER: You don't know. That's an answer.
MR. BARRON: Q. Did you believe that the government regulations had a meritorious purpose?

00447

MS. CHABER: Objection. Calls for speculation, lacks foundation. She says she's assuming there were some --
JUSTICE DOSSE: Yeah. We don't know what regulations we might be talking about. Are we talking about the California Vehicle Code, things of that nature? I -- there's no basis on which to build on this question.
MR. BARRON: Well, I can't define it, be they California or Federal at this point, because she is indicating she doesn't necessarily remember the specific ones, your Honor, and I'm trying to group them by category. I can ask them by Federal, I'll do that if it would assist.
Q. During your time at Oxnard Junior College, and when you were taking the trucking class or course or both, did you receive any instruction, without regard to what the specifics were right now, but any instruction or any information about Federal government regulations involving the safety of the trucks or the equipment associated with the trucks?
A. I don't know in specifics, but I was taught safety. I don't know whether it was government-regulated or not. I was in a -- a college class.
Q. Did you accept, as having merit, the safety concepts that were provided to you during the instruction, even if they came from the government?

00448

MS. CHABER: Vague and ambiguous, it calls for speculation.
JUSTICE DOSSE: Sustained.
MR. BARRON: Can we go off the record for a moment, see if I can get some direction, if I can rephrase the question in a way that wouldn't call for speculation.
MS. CHABER: Does that mean we are taking a break?
MR. BARRON: For a second, sure.
VIDEO OPERATOR: I'll just change tape while I'm at it.
VIDEO OPERATOR: This marks the end of tape 2 of volume 3 of the deposition of Leslie Whiteley. Going off the record the time is 3:49.
(Recess taken from 3:49 to 3:52.)
VIDEO OPERATOR: This marks the start of tape 3 of volume 3 in the deposition of Leslie Whiteley. Going on the record. The time is 3:52.
MR. BARRON: Q. Let's see if we can make it not specific and back up a little bit.
Again,, I don't want you right now to try to recall any specific information, any specific regulation, anything specifically that you may have been taught, but I want to find out, first of all, whether you remember, in fact, that while you were taking the trucking course, at some point some information was provided to you about

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00449
Federal government regulations that dealt with the safety of the truck as a machine or the equipment associated with the truck, or both.
A. I don't know if it was Federal. I can't -- you know, I --
Q. You don't know whether it was Federal or State, but you remember some information about such safety regulations?
A. Well, I know there's a safety checklist you go through, the pre -- preopping your truck, your safety list you go through.
Q. And you don't know whether that came from the Federal government or the State government, or somewhere else?
A. It came from the -- the instructor that -- he handed it to me. You go through your pretrip before you -- there are safety procedures, yes.
Q. Did you ever become aware, during the instruction that you received, that there were any safety procedures associated with people who drove truck that came from government requirements?
A. I -- I guess.
MS. CHABER: Don't guess. That's where we are at.
THE WITNESS: See, this -- I -- I don't know. I -- I don't know where this is --
00450
MS. CHABER: Nobody wants you to guess or speculate.
So the question is: Do you know, or do you not know whether they came from government regulations? If I can rephrase for you, Counsel.
THE WITNESS: All I know is I was in a course for truck driving and they were teaching us how to drive trucks. What does the government have to do with me being in college?
MR. BARRON: Q. So by the time you finished the trucking course and class, you don't remember ever having any information given to you where you knew the information was what the Federal government required, concerning the safety of the truck or any equipment associated with the truck?
A. Specifically? No, I don't -- I still don't understand exactly what information exactly you want.
Q. Before you finished the trucking class at the junior college, were you ever informed of any government Federal regulations that involved rules for Interstate trucking?
A. If it was part of the -- of the course, yes. If it was part of the course.
I am telling you specifically right now, I am not going to swear that I remember a certain thing happening
00451
if -- if I don't remember it exactly the way it is. And you keep asking me the same question over and over and over again.
Q. Well, I don't mean to ask the same question. I'm --
A. It's the same thing. You just keep asking the same thing.
Q. Do you have an opinion as to what your reaction was or would have been to Federal government regulations concerning trucks and equipment associated with it, if

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those regulations indicated that they had a safety purpose?
MS. CHABER: Objection. Calls for speculation, vague and ambiguous.
JUSTICE DOSSE: Sustained.
MR. BARRON: Q. Did you become a licensed truck driver?
A. Yes.
Q. What class?
A. Class I license.
Q. For how long did you hold the class?
A. I'm not sure. It was -- when it was time to renew it I was pregnant with Troy, I believe. I'm not sure. I'm not sure. I was pregnant at the time, but I don't remember which child it was.
Q. You mentioned that you wore motorcycle helmets,

00452

when you answered a question by your lawyer. Do you remember that?
A. Yes.
Q. Have you, on every occasion that you've been on a motorcycle, worn a helmet?
A. No.
Q. When did you not wear a helmet, and when did you wear a helmet, if you can place it in time?
A. When there was a law for helmets and when there wasn't a law for helmets.
Q. When there wasn't a law for helmets, you didn't wear one, and when there was a law that was passed requiring that one wear a helmet, you then complied with the law and wore a helmet?
A. Yes.
Q. Before the law was passed, did you have a personal point of view of whether there should or should not been such a law?
A. I never thought about it.
Q. You were aware, weren't you, that there were motorcycle people in California who were opposed to the passage of such a law?
A. Oh, yes.
Q. Who said that it was invading their privacy rights, or their rights to be responsible for themselves

00453

and they wished to ride without a helmet?
A. Yes.
Q. You never had that political or philosophical point of view?
A. My own preference.
Q. Was what?
A. Was I -- I liked to be able to have peripheral vision, and the helmet takes that away. Also, if you've ever had a bee in your helmet, it's not fun. And it hurts your neck. There's a lot of -- it's a personal preference. It has -- that's it. It has nothing to do with what other people think.
Q. Before the law was passed, did you have a position or point of view or thought whether it was safer to ride a motorcycle with or without a helmet?
A. I don't know. That's not a -- it wasn't --
MS. CHABER: You answered the question.
MR. BARRON: Q. Either before or at the time of -- or after the law requiring helmets was passed, did you ever develop an idea that the government was passing the law because the government took the position that it

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was something that would improve the safety for the rider?
A. My opinion that I had read on that was just it was over money, because of that, but I just -- you know, everybody has their own opinion.

00454

Q. What did you -- what do you mean when you say your opinion at the time was it was over money?
A. They were talking about that if people wore helmets, it would be -- it would save money; but where, I don't know. That's -- you know, I -- I wasn't in -- didn't rally, or any of that stuff. That was not my thing.
Q. So at no time have you ever developed an idea or a thought or an opinion whether the government, when it passed the helmet law, thought that it was increasing the safety for the rider? Or to put it another way, decreasing the risk of injury or death to the rider?
A. No. Actually, I -- I could laugh about that, because people go threw windshields in their cars all the time, and if they had a helmet on maybe it would save their life. I mean, does -- what's the deal? To me, it was no -- it wasn't an issue with me.
Q. Was there a time that you remember in California where there was not the required use of seat belts?
MS. CHABER: Your Honor, I am going to object. I think we are going so far afield that this is getting beyond the scope of reasonable discovery.
JUSTICE DOSSE: Anything further on that?
MR. BARRON: No.
JUSTICE DOSSE: The objection is sustained.
MR. BARRON: Q. What has been your practice,

00455

when you've been responsible for yourself, as to whether you have worn or not worn seat belts?
MS. CHABER: Objection. Irrelevant. Not calculated to lead to the discovery of admissible evidence.
JUSTICE DOSSE: Sustained.
MR. BARRON: Q. Let's switch subjects again for a moment.
What I'd like you to do is with your lawyer's assistance, is find the set of photographs copies of which I don't think have been provided to us and I'm not casting aspersions there, Madelyn -- but photographs of you at various times and places, some of which had cigarettes or smoking in them.
A. They all did.
Q. Okay.
MS. CHABER: It's Exhibit 3 --
THE WITNESS: Or ashtrays, or it was what --
MS. CHABER: -- a through Z.
THE WITNESS: -- asked for.
MS. CHABER: I believe A through Z, 3-A through Z.
MR. BARRON: Q. Do these photographs represent all the photographs that are under your custody, control or possession that have you and cigarettes, or smoking, or ashtrays in them?
A. That I could find

00456

Q. Okay. I'd like to run through them quickly. I don't know the best way of doing it. I kind of wanted to look at them as we do it.
JUSTICE DOSSE: Is there any objection to repositioning?
MR. BARRON: Any chance that -- can I just do

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that?
JUSTICE DOSSE: Fine.
MS. CHABER: Do you want to switch mikes then?
JUSTICE DOSSE: Maybe you can stay right where you are and we can get another chair over there or something.
MS. CHABER: I'll just stand quietly here in the background, assuming that --
MR. BARRON: Just put it by the side there would be fine by me, turn it around this way, if you can still see it.
MS. CHABER: I was going to suggest, if you wanted to come here, Counsel, I don't have a problem with you sitting --
MR. BARRON: Q. Actually, maybe you can just hold it up, maybe that would work, then I can see it and the camera can still see it. Why don't you try that, and Madelyn can help you there. Okay. That has no one else in it, so that's 3-A. You may turn the page to 3-B, if you would.

00457

A. And 3-C has other people in it. Again,, I'm not clear who is who. Could you run through who those are?
A. This guy's name is John.
Q. John what?
A. I believe it's Milliken, but -- Milliker -- but I'm not sure on it.
Q. He was in the Ventura-Ojai area?
A. No -- this says.
Q. I'm sorry Ocean -- I can't read Oceanside, Virginia?
A. Yes.
Q. Okay. He was in the Navy?
A. Yes.
Q. A friend of your husband's
A. And mine, yes. And behind him is his wife Juanita. I don't remember this couple's name. This is me.
Q. The other couple, did you or your husband know them through your husband's Naval connections?
A. Yes. He -- he was a ship mate.
Q. If you would, turn the page to the next one. And those are both you?
A. Yes.
Q. Can you turn the page again, please? The photograph 3-F has some people in it. Can you identify who those are?

00458

A. Yes,. My uncle Ray and my mother. And I'm not sure who she's holding. It may be my niece, Heather.
Q. Ray's last name is what?
A. Roberson.
Q. And who is the fellow playing the guitar?
A. That is me.
Q. Well, I -- I apologize. I can't see. I just -- it's a long way off and I just saw jeans there and assumed it was a guy, so I apologize.
A. Women don't just wear skirts.
Q. I know. We've already agreed that I have bad eyes and I'm using these off-the-shelf glasses, and I can't see very far any more without glasses, it looks like, so I apologize.
A. Would you like to try mine?
MS. CHABER: Or mine?
MR. BARRON: Q. Well, they might work. Okay.

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It would be the top left as the camera looks at why you are pointing at it.
A. Dan Smith.
Q. Who was what?
A. A friend of Leonard's. And this is me.
Q. I see.
A. I have jeans on.
Q. And the the camera lighting is a little better,

00459

you have to concede.
A. Okay.
Q. You can turn the page, if you would. Okay. And the top left, again, as I look at it, there you are. And who is next to you there?
A. Dan Smith. It's the same gentleman in the previous picture.
Q. Okay. And if you would turn the page again, that would be great.
A. Not a real flattering shot there.
Q. I wasn't going to even guess who that was, but I do see it's a woman.
A. It's me.
Q. Okay. The bottom photograph as you look down there, can you tell who that fellow is? I guess it's a fellow again. I'm trying to see.
A. Yeah. This gentleman?
Q. Yes.
A. His name I believe was Curtis, I think. He committed suicide. He's -- I was told he's dead.
Q. If you could turn the page, that would be great.
A. The middle photograph has a group of folks, it looks like some "canyon." I can't read that far away.
A. Matilija Canyon.
Q. Okay.

00460

A. This is my little brother and me and Dan Smith, and I think that's his son, from looking upside down.
MS. CHABER: I am going to move that.
MR. BARRON: Q. Now, the photographs on your left side, the camera's right side are a little darker, and especially the bottom one, so I can't make out -- it looks like the same people in each on the right-hand side.
A. Me and my husband on our wedding day.
Q. Okay. And that's -- it says down below, wedding, of May 3rd, 1986?
A. Yes.
Q. Okay. Would you turn the page, please, again. 3-N, which is on your right side, the camera's left side?
A. This one?
Q. Yes.
A. This is my sister-in-law, Brenda.
Q. And her last name again, is?
A. Whitaker.
Q. Okay. And I think I know the rest.
And then on the -- your left side the camera's right, it looks like that's Troy's birth. I can read "1988."
A. Yes.
Q. If you could turn the page again,, that would be great. And you can turn it again, that would be great.

00461

And you may turn it again, if you would. And again,, if you would.

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Q. Okay. The top photograph there, I can't read that far.
A. This is my mother. This is a package of my cigarettes that was sitting there.
Q. Okay. That's the top photo of 3-V, as in Victor?
A. Yes.
Q. Okay. If you could turn the page again, that would be great. I can't see that far who is playing the guitar there?
A. My sister-in-law, Brenda. This just shows the ashtrays on the -- the end table.
Q. And on the camera's right-hand side, your left-hand side, we have a motorcycle?
A. Yes.
Q. And whose motorcycle was that?
A. Mine and my husband's.
Q. Okay.
A. And there is a helmet underneath this leather jacket.
Q. Because there must be a helmet law by then, right?
Do you want to turn the page, please, if you would?
A. Okay.

00462

Q. Okay. Thank you.
A. A leather jacket on a hot day.
A. A leather jacket on a hot day.
Q. Now, your second serious attempt to quit smoking and your husband's third serious attempt to quit smoking was in February of 1998?
A. Wait a minute. My second serious attempt. I --
Q. Yes.
A. What do you mean by that?
Q. The same way we have been using that phrase throughout the whole deposition.
A. Okay.
Q. And based on your earlier testimony that you gave, including that to your lawyer is what I am basing it on.
A. What -- I mean, what time, the second --
Q. Okay. Well, I -- I understood you and Leonard made a serious attempt together?
A. Yes.
Q. And we talked about that, that involved the Yosemite trip.
Then you went back to smoking sooner than he did, but he eventually went back, and then he made another serious attempt and it lasted as long it did and he quit for the -- I mean, excuse me.
He went back to smoking for the reason he did.

00463

And then I was trying to establish that you and he both again made an attempt in February of 1998 that was serious, and that was --
A. February --
Q. February. That was your second serious attempt --
A. Okay.
Q. -- and his third serious attempt while you folks were together?
A. Right.
Q. Okay. And that followed your involvement with a doctor and what you've called chronic bronchitis, am I correct?
A. Yes.

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Q. And for how long did you have the condition that ultimately was determined to be chronic bronchitis before you saw that doctor?
A. Approximately, I would say a week, because it was, you know, a cold that got worse. As the symptoms got worse, then I went to seek medical care.
Q. And the doctor or health care person that you first saw for that was whom?
A. Dr. LaMonica.
Q. What's his first name?
A. I don't know. It was at a clinic in [DELETED].
Q. What was the name of the clinic?

00464

A. Ojai Valley Community Health Center, I believe.
Q. Was that one of those you urgent or emergency care-type places where you just walked in, or was it more the clinic type, where there were different doctors with different specialties that practice together?
A. It's an -- excuse me. It's a clinic. It is not an emergency care.
Q. Had you seen this doctor before for any other conditions or problems?
A. I don't know, because it being a clinic there is always different doctors in there, so I couldn't tell you which -- if I had seen him in particular before.
Q. You had been to the clinic before, however?
A. Yes.
Q. Do you know how you got to Dr. LaMonica as opposed to another doctor? In other words, did another doctor recommend him, did you select him, or just walk --
A. No. They just assigned him to me when I had called to make the appointment. It was a clinic. You see who, I guess, is available. There's a -- a lot of medical people go in there. It's a --
Q. Did that doctor have any specialty?
A. Not that I know of. He was a doctor, medical doctor.
Q. You are not sure? He didn't have one, you just

00465

don't know that he did?
A. I don't know that he did or didn't.
Q. Now, did you see Dr. LaMonica more than one time for this chronic bronchitis as we have been calling it --
A. No.
Q. -- condition?
A. No.
Q. Did Dr. LaMonica tell you that smoking was, in his opinion, a likely cause of your chronic bronchitis?
A. Yes.
Q. Was your chronic bronchitis at that time, in your opinion, causing you appreciable pain?
A. Yes, it was.
Q. Was it causing you appreciable harm, from your standpoint?
A. I -- that's.
MS. CHABER: Vague and ambiguous, calls for speculation as to what you mean by "harm."
JUSTICE DOSSE: Overruled.
You can answer the question.
THE WITNESS: Harm? I was in so much pain, that's why I made the doctor appointment, because I could not breathe. It hurt to breathe -- actually breathe.
MR. BARRON: Q. So when you --

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A. I was -- something was wrong with me.

00466

Q. So at the time you thought you were suffering some appreciable harm from what was going?

A. I -- I was sick. That's -- and that's why I went to the doctor, I -- I had been sick. My lungs were all infected, you know, you go to the doctor. Is that the answer you were --

Q. When the doctor told you that he thought that smoking was a cause of this condition, did you believe that he was correct?

A. I listened to him because he told me that at that point. Obviously I couldn't, I -- at this point I -- I couldn't breathe. I just wanted to get some medicine and get well, is why I went, and he spent the time looking at me.

Q. You didn't think he was lying to you, did you?

A. He was -- he told me he thought that as long as I smoked, I would have those episodes.

Q. My question is: You didn't think he was lying to you?

A. Not at that point, no.

Q. So when he told you that he thought that smoking was a cause, you believed him, didn't you?

A. At that -- at that point, I don't know what I believed. I just wanted to get the pain taken care of.

Q. What did he tell you, or what did you learn while

00467

you were there, as to what "chronic bronchitis" meant?

A. He had looked at my records and seen that I had been in previously for infection in my lungs, and told me that his opinion was it was from smoking, and if I continued to smoke, that I would continue to have chronic bronchitis.

Q. How did he describe what he said saw in your lungs?

A. He didn't see in my lungs.

MR. BARRON: Okay. Could you read her previous answer back? I missed the word she used.

THE WITNESS: Records. Records. He had looked at my records, they were right there.

MR. BARRON: Q. What did he tell you in the records made him think that you had had something in the past that related to this chronic bronchitis?

A. It must have been written down in -- in my medical records. He asked -- I had been -- he asked me if I had been sick earlier in the year, you know -- he asked me, does this happen often, that you get bad colds or, you know, get -- get this way?

And I said back in December I was -- I was all congested also.

Q. Well, here you are -- here you are and you are having this -- and I am not trying to quote you here -- but

00468

very severe pain, were you not?

A. Yes.

Q. In fact, it was excruciating?

A. It was very painful.

Q. And you believed that there was something wrong with what was happening inside you to cause the pain. It wasn't coming from something all of a sudden outside?

A. I had a cough, that's why I went to the doctor.

Q. So you go to the doctor. And what does he tell

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you about what it is, other than the fact that smoking is causing it?
A. He just explained to me that smoking causes bronchitis in people.
Q. Did you know what bronchitis was?
A. Not really.
Q. Did he explain it to you, try to tell you a little bit about what it was?
A. I can't remember in detail, but he -- he told me that if I kept smoking I would have more of these episodes. We've been here already.
Q. Well -- but I'm not sure what he's told you yet. You go to a doctor, you've got excruciating pain, he says you've got chronic bronchitis. Have you ever heard the word "chronic bronchitis" before he said that?
A. I don't know.

00469

Q. And didn't he either tell you, or you asked, "Golly, what is it? What do you mean chronic bronchitis? What is going on? What is it? I'm in terrible pain," something along those lines to try to find out?
A. He didn't go into detail -- medical detail, if that's what you are trying to get at.
Q. Did he go into --
A. I told you, I went in there to seek medical care and he put me on antibiotics. And he told me what he told me, and he told me if I continued to smoke I would have more of these episodes. This is what I remember.
Q. Didn't you learn -- without the exact words here being exact here, didn't you learn that the smoking had been causing you some damage to some parts of your body like the lungs or the tube that went down to the lungs?
A. He only told me smoking causes the chronic bronchitis, that if I continued to smoke I would get it again. This is what I remember. I just told you that.
Q. And did you understand what part of your body was being affected by the smoking to cause the chronic bronchitis?
A. At that point my lungs hurt and I could not breathe.
Q. So you understood he was talking about your lungs as having this problem?

00470

A. Yes. They were what was infected. That's why I went to the doctor. Isn't that what we are talking about?
Q. I think so.
A. Okay.
Q. And you understood that, therefore, somehow there was some harm going on to your lungs at this point?
A. Obviously. I couldn't breathe.
Q. And it was appreciable because it hurt like the dickens?
A. Worse.
Q. Okay. And -- and you believed what the doctor said as to what was causing it, isn't that true?
A. Yes.
Q. Now -- and then you believed him so you followed his advice?
A. I couldn't smoke if I wanted to. I couldn't smoke. It was -- I was doing good to breathe.
Q. And so you had that as the time when you didn't smoke and began the effort to quit again, correct?
A. Actually, when I left the office, I lit up a

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cigarette in the car, and I think I maybe got a couple puffs off of it by the time I got across the street, but it was put out because I couldn't -- couldn't breath --
Q. And you then went ahead with the effort to quit or stop smoking?

00471

A. I smoked one more cigarette.
Q. How long --
A. I believe it was one more cigarette.
Q. How long after?
A. That was that night.
Q. And after that, then, you --
A. No more.
Q. -- didn't smoke again?
A. No.
Q. Would you compare to me how you felt physically and emotionally in the effort to quit smoking the second time when compared with the first time? In other words, was there any difference at all; and if so, what was the difference?
A. Yes. There was a difference, because I was also on -- I was on medication. They had me on a cough syrup.
MS. CHABER: Codeine.
THE WITNESS: -- codeine, so I slept a lot. In fact,, I about literally slept for three or four days, because I had been so sick and that it relieved the pain and I was able to breath better and -- so I -- I pretty well slept through the worst of what I had gone through before. I was fortunate, I guess, that I was on the medication.
MR. BARRON: Q. And then following that period

00472

when you were on -- this sleeping period because of your condition and the medications, how would you compare how you felt physically and emotionally in this nonsmoking effort that you were smokinging, compared with the other time that you were serious about it and lasted two weeks or so?
A. In compared with the other time, I felt more positive because I never, ever wanted to feel that pain again. And I was proud of myself for not smoking.
Q. How would you compare the pain that you were feeling from this chronic bronchitis compared with child delivery?
A. That's two difficult pains you are talking about.
Q. And I have never gone through either. I am just trying to -- it's probably not important.
It was -- it certainly was very painful, the chronic bronchitis, excruciating and severe, is that true?
A. Yes.
Q. And how long a time was it excruciating and severe, did it remain so even after you took the pain medication?
A. It -- it was lessened after taking the pain medication. And as the antibiotics started working, of course, the symptoms went away.
Q. So how did you feel, then, following the time when

00473

you slept a lot up to the time that you were diagnosed with lung cancer?
A. I still craved cigarettes. My -- I still wanted to smoke, but I was determined not to. And at this point I had my children and my husband and my family, we all helped

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each other. It was a family effort.
MR. BARRON: Do you want to take a break for a moment or for more than a moment?
MS. CHABER: Do you want to keep going or do you want to take a break?
THE WITNESS: I'm fine.
MR. BARRON: Do you want to go to on, is that what you'd like or just keep going --
MS. CHABER: Just keep going. She needs one right now.
MR. BARRON: I kind of sensed --
MS. CHABER: Lets take a little break.
VIDEO OPERATOR: Going off the record. The time is 4:33.
(Recess taken from 4:33 to 4:52.)
VIDEO OPERATOR: We are back on the record. The time is 4:52.
MR. BARRON: Q. I just have a couple follow-up questions on this circumstance and time frame we were talking about when we had a recess a moment ago, the

00474

February '98 and immediate period thereafter time frame.
Was it also recommended to you by any doctor or health care provider that in order to assist you with this effort to quit, you ought to use something called Zyban, Z-Y B-A-N, and/or nicotine gum?
A. The doctor suggested that -- that if -- if -- it was new and that it was available, but he didn't tell me I should take it. He just -- he did mention it. I do remember him mentioning it.
Q. Did you try either?
A. No.
Q. Did you do anything in your effort to make your attempt to quit successful, in addition or different to what you had done the first time that you made a serious attempt back when you and Leonard did it?
A. Only that I was on medication and -- and -- and that it -- it kind of paved the first three or four days for me that I slept through withdrawal symptoms.
Q. What about the cigarettes themselves, were they thrown away this time in -- or after February of '98?
A. There was a carton of cigarettes unopened of mine that I never opened.
Q. That remained in the household?
A. Yes, they were there.
Q. For a period of time?

00475

A. I don't know how long, but they were there.
Q. And I apologize if you've cleared this up before or discussed it before, but did Leonard stop at the same time or same day that you did in this February episode?
A. No.
Q. Did he stop some time after you did?
A. Yes.
Q. How long after?
A. He had came home from work, and I had told him to get away from me, I didn't want to smell anything that had anything to do with cigarettes.
Q. How many days was this after you had stopped smoking that this occurrence took place?
A. That was the next morning --
Q. Okay.
A. -- after I had seen the doctor. I mean, he came

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home from work, it was the next -- the next day that he had came home from work that I said that to him.
Q. So this is during the period that you were home still sleeping a lot and under medication?
A. Yes.
Q. And then that request on your part led him to say he would stop smoking, and then he went ahead and tried and succeeded?
A. Yes. He quit the next day. He stopped. That's

00476

when he did his part.
Q. And did Leonard, to your knowledge, do anything different or additional in his effort to quit smoking this time in February than he had in either of the two other times?
A. Yes, he did.
Q. What did he do differently or additionally?
A. He wore the patch, the nicotine patch and he -- he wore one patch -- the same patch for three days, and then stuck it on his mixer.
Q. Is this a patch he acquired from off the shelf, or did he get it from a physician or a health care person?
A. Actually, he got it from a co-worker who had bought them for themselves and the guy was unsuccessful with them and -- and gave what was left to Leonard.
Q. Other than that, did Leonard do anything different or additional in this effort in February of '98 to stop smoking compared with what, you know, he had done on the other two occasions?
A. That's -- that's it, was the -- that patch, that I -- that I know of.
Q. So he didn't go to any clinic or seek any counseling or go to any doctor, or anything like that, so far as you are know?
A. In fact,, he thought I had used the patch, but I

00477

didn't, and that's why he said he wasn't going to be a baby and -- and -- and have to wean himself off of the nicotine again from the patches. That's why I didn't use it. I chose to go cold turkey and -- and -- because I was afraid I would not be successful because of -- the patch had nicotine in it, I -- you know, I wanted a clean break.
Q. Switching subjects again, if I could. There was a time when you, for some period worked outside of the home as a maid or a housekeeping person, is that correct?
A. Yes.
Q. Okay.
A. Not while I was married with Leonard.
Q. No. I meant working outside the home because, frankly, women who are at home and have responsibilities work, so I was just talking about working outside the home.
A. Okay.
Q. Okay. No. And I was changing subjects and changing time frames and all of that.
A. Boy, are you.
Q. I know.
A. Okay.
Q. That's why I tried to let you know that's what I was doing.
A. Okay.
Q. And actually, my next question is, when was it

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that you first started to do that kind of work outside the

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home?
A. Maid -- maid work?
Q. Yes.
A. That was, I think, my first kind of work was at -- I think that was -- when did I do it? Motel 6 was my first maid job, I think, only because it didn't take any kind of special training and the jobs were always available.
Q. To try to put it into a time frame, was this before or after you graduated from high school?
A. After.
Q. Was it before or after you entered the trucking program at Oxnard Junior College?
A. Before.
Q. And did you do any such work anywhere else but Motel 6 before you went to Oxnard Junior College and the trucking program?
A. Yes.
Q. Where else?
A. Hotel in -- in Ventura and Los Padres Inn. I worked while I went to school -- not high school, but truck driving.
Q. At any of those locations, did you receive any instruction concerning any of the products that you were going to use or might use in your job assignment?

00479

A. I don't -- what do you mean?
Q. Well --
A. Instruction on --
Q. I am trying to distinguish between --
A. What products?
Q. I suspect that when you are on the job somebody says, you know, these are the rooms I want you to dealdeal with, or this is the section of the lobby that I'd like you to deal with, and give you some instructions.
But I'm trying to set aside that, and specifically limit it to any discussion or instructions about what type of products to use as you did your work.
A. Only that you used the window cleaners on the window, and the glass and -- and -- and the -- the toilet bowl cleaner in the toilet.
Q. Were you requested, or were you ordered in any way to, for example, wear gloves?
A. No.
Q. Were you ordered or requested to read any warnings or product-use information that might be on the products themselves?
A. No, not that I remember.
Q. Did you ever do that on your own?
A. No.
Q. Did you use some products that you know had some

00480

information on them concerning warnings about how to use them, or warnings about how they could cause any injury or damage?
MS. CHABER: Calls for speculation. She said she didn't read them.
JUSTICE DOSSE: Sustained.
MR. BARRON: Q. Okay. Just if I can take it one step. I'm not limiting to you, in this answer, reading the whole information on such products, if there was any, or trying to tell me right now if you read anything, what it said.
I'm only asking for, at this point, whether when

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you were working, you ever saw or understood, just from the kind of product you were using, that on the product itself somewhere there was some information that was a warning about the product?
MS. CHABER: Calls for speculation.
JUSTICE DOSSE: Overruled.
THE WITNESS: To be honest, the bottles were unmarked pink stuff, blue stuff.
MR. BARRON: Q. Everywhere you worked --
A. That was on the maid carts.
Q. -- they were unmarked?
A. Yes. It didn't have anything on it.
Q. Did you know what was in them?

00481

A. Yeah. One was for cleaning glass, and the other one was for squirting in the bathtub and wiping out with towels.
Q. Now, as time went by, we know that you married and had some youngsters, correct?
A. Yes.
Q. And during that time, were you the one primarily responsible for maintaining the house, in terms of using products, if you had any, for cleaning?
A. Yes.
Q. Was there ever a time where you became aware or believed that those products had on them any information that included any warnings about the products?
A. I suppose.
MS. CHABER: Don't suppose. That's not what he's asking.
THE WITNESS: Well, I have seen, you know, bleach, you don't mix -- I mean, you don't mix bleach and ammonia. Is that what you are getting at? I --
MR. BARRON: Q. Have you ever, in your whole life, for example, used a product that is supposed to help with unclogging a drain?
A. No, not that I am -- not that I remember using. My dad is a plumber.
Q. Have you ever had, in the household, to your

00482

knowledge, some products that contained on them any labels that included any warnings, such as "keep out of the reach of the children," or, "do not swallow," or "if swallowed, do not induce vomiting," things of that kind?
A. I'm sure I do, and everyone does in their home.
Q. Did you ever make an effort to keep those products, that might cause injury or damage to youngsters, out of the reach of your youngsters?
A. Yeah. It's called child locks on the doors.
Q. And in order to determine what to put in those cabinets that had the child-lock doors, you had to take a look at what you had around the house and pick out those that might cause some injury or damage, is that correct?
A. I don't pick out things. There's -- there's other things that can harm them, also. You could have marbles on the floor. Anything they can choke on.
I don't go pick and choose through the house what I am going to hide from the kids.
Q. Well, did you --
A. I don't know --
Q. Did you put any products away in what you call child-proof locks or doors at any time so that your kids would not get into them?

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A. Well, of course, yes.
Q. Okay. What kinds of things did you put there?

A. Household cleaners that I used. We've been here.
Q. What else, if anything?
A. Dish soap?
Q. Pardon?
A. Stuff. Anything that I don't want them to get into, I put up.
Q. Anything else?
A. You want me to name everything in my house that's in a tall cup board or -- or under my sink, is this where we are going?
Q. Maybe not everything, but I'd like some more examples that you can think of that you recognized as posing a potential danger to your youngsters.
A. That's anything that I wouldn't want my children to get into that. That -- that would be food, even, that they could choke on.
You want me to -- anything -- under my sink right now, I have -- there is a can of oven cleaner, which I have never used because Leonard bought it and I -- I wouldn't use it. And there is a can of -- not a can -- a -- a spray bottle of -- of antibacterial stuff in the kitchen, stuff like that is -- is in there.
Q. And it's in there in a way contained by your locks that it is, in effect, child-proof?
A. I hope so.

Q. And what made you think that the antibacterial spray or material or product, was something that you ought to put there because it posed a risk to kids?
A. Well, they don't need to be in it. That's my job. To mess with it, anyway. Excuse me.
Q. Have you ever looked at the label of the bacterial spray to see if it were misused in some way or gotten ahold of by a youngster in some way, it might pose a risk to them?
A. No. I just read how long to spray it to kill the bacteria.
I don't know where this is going, what it has to do with smoking.
Q. Have you ever, again, to your recollection, actually looked at any things that were on a product, like a product label, and specifically looked at any information that was called a warning or that, in effect, was a warning of some kind about a health risk, if it were misused or used in a certain way?
A. Specifically, I can't tell you what I've read.
Q. Have you on occasions used products where you have read the directions before using them?
A. Well, of course.
Q. And was one of your purposes of doing that, was that if there was a risk or danger indicated with it, not

doing it the correct way, you would avoid encountering that risk or danger?
A. You just asked me if I read the directions.
Q. Yes, I did.
A. What do directions have to do with risk or danger?
Q. Have you ever used any fertilizers or weed killers or pesticides, either in the garden or around the home?
A. I don't use weed killer.

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Q. Pesticides?
A. I have used ant spray that they sell in the grocery store.
Q. And before using that ant spray, did you notice whether there was anything on the box or the can or the container that had the spray --
A. No.
Q. Did you have a understanding as to whether, if the pesticide was not used as recommended, the pesticide's use might cause some sickness illness or injury?
A. No. They sell it to kill ants.
Q. You mentioned in answering your lawyer's question, or questions, that -- and then also I think with me, that there were times when you'd smoke while you were having coffee?
A. Yes.
Q. When did you become a coffee drinker?

00486

A. I think when I lived in Virginia.
Q. And was there a time where you became a coffee drinker that you would have at least one cup a day?
A. Yes.
Q. And when was that?
A. In the morning.
Q. By what year, or where were you when you became a coffee drinker where you'd have at least one?
A. I don't know. That's -- I have no idea.
Q. And if a question were asked, like you sometimes see on a medical record, like "How many cups of coffee do you drink a day," what would you say in response to that?
MS. CHABER: Now?
MS. CHABER: It's vague as to time.
JUSTICE DOSSE: Sustained.
MR. BARRON: Q. In the time you were in Virginia, what would you have said?
A. I don't know what I would have said, because I don't know -- I don't recall how much I -- how much coffee I drank then.
Q. By 1980, what would you have said?
A. 1980? I don't know.
Q. You don't know how many cups of coffee you would typically drink?
A. You are talking almost 20 years ago. I don't know

00487

how much coffee I was drinking 20 years ago in the morning.
Q. Mid 1980s?
A. I don't -- I don't know.
Q. 1990?
A. That's easier. Three to five, all day long.
Q. 1996?
A. Probably about the same.
Q. Did you ever try not having coffee for any substantial number of days?
A. Yes, I did.
Q. And how did you feel physically and emotionally when you tried that?
A. I had a headache.
Q. Mild, moderate, severe, or what?
A. I would say moderate. A moderate headache.
Q. Only one?
A. No.
Q. How many?
A. Probably lasted two, three days.

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Q. Did it affect your degree of irritability, going without coffee?
A. No.
Q. Did you notice any personality change at all?
A. I don't remember.
Q. Did anybody else indicate that they noticed any
00488
personality change?
A. I don't remember.
Q. Did you feel inside, in terms of your temperment, just like you did when you were drinking coffee, or did you notice any change?
A. I don't -- I just -- I don't remember.
Q. You've heard other people say that they have felt their temperment change when they have stopped drinking coffee, is that correct?
A. I just heard you say it.
Q. Am I the only one you've ever heard that from?
A. It's not something I pay attention to. It's not a big topic around my house.
Q. I wasn't just limiting it to your house. Have you ever heard anybody say anything like that?
A. I have heard people say that they had a headache when they have quit drinking coffee.
Q. You also quit alcohol at some point, did you not?
A. Yes.
Q. When was that?
A. It was about 11 and a half years ago. 1988.
Q. I'm sorry. Let me go back a minute to the coffee. Did you only try to quit coffee one time, or was there more than one time that you did this?
A. Just the one time. That was when I had the rapid
00489
heart beat and I had quit -- I drink caffeine now, but I had stopped for awhile. The doctor thought it would help, and it did.
Q. And how long did you stop the coffee drinking?
A. You know what? I'm not sure on that. I can't say.
Q. Fair enough.
Do you have any reasonable estimate to give or would --
A. No. I gradually went back to drinking coffee.
Q. You quit alcohol in 1988?
A. Yes.
Q. And did you ever resume?
A. No.
Q. And what was your level of drinking in the last year or so up till the time that you quit alcohol in 1988?
MS. CHABER: I would object, your Honor. I think it's an invasion of privacy, it's irrelevant and it's remote. We are talking 11 and a half years ago. There's no medical evidence or proof, that I'm aware of, that it would be associated with her cancer or anything else.
JUSTICE DOSSE: Do you want to respond?
MR. BARRON: Yes,. It is probative, I believe, or could be, and I don't know the answer yet, to the question of one's ability to quit a habit or practice that one has
00490
developed.
And in order to determine whether one can do that, you have to know something about how devoted one is to the activity in order to evaluate one's ability to quit under

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those circumstances.
MS. CHABER: I think we have Evidence Code Sections 787 and 1101 problems here, where we are trying to use instances of conduct, and in some other setting, in order to prove conduct in this particular setting, that is, as to cigarettes, and I think under both those sections this would be inadmissible.
JUSTICE DOSSE: Anything further on that?
MR. BARRON: Only that the sections that she cited I don't think relate to the issue of not trying to prove conduct on a certain occasion by proving bad conduct or conduct on a past occasion. That's not the purpose of my inquiry. This is discovery, in addition, I would add. It's not trial.
JUSTICE DOSSE: All right. The objection is overruled.
MS. CHABER: On the latter ground, your Honor, on the discovery ground?
JUSTICE DOSSE: Yes.
MS. CHABER: Thank you.
THE WITNESS: What was --

00491

MR. BARRON: Q. I think the question was: In the last year or so before this time in 1988 when you give up alcohol, what was your alcohol consumption like?
A. It varied. Sometimes I had a couple beers a day, and, you know, sometimes it was a six pack or a 12 pack on a weekend.
Q. Did you feel that you were physically or emotionally attached in any way to the alcohol when you went to give it up in 1988, so that you were trying to give up a -- a habit or something that would take a little bit of will power to do?
A. I --
MS. CHABER: Vague and ambiguous as to "attached." I really didn't understand the question.
JUSTICE DOSSE: Overruled.
Do you understand the question?
THE WITNESS: I -- I think he's trying to ask me how hard it was to quit drinking, and it was easy. That was easy to answer.
MR. BARRON: Q. And you did that for, among other reasons, your health, correct?
A. I did that because we chose to have a family and we wanted to improve our lifestyle and -- and, you know --
MS. CHABER: Be sober.
THE WITNESS: Be sober.

00492

MR. BARRON: Q. So my question again was, you did that for at least a reason of your own health, is that correct?
A. I did it so that I could have a family with children. I did not want to drink any more. It was a choice I made, a personal choice I made that I did not want to consume alcohol any more.
Q. Was one of the reasons why you made the choice that you did in 1988 to stop drinking, that you wanted to --
A. It was to have a family. Me and my husband wanted to have children. I answered your question.
Q. Well, I understand that you are trying to, but I'm asking questions because I'm trying to see the connection between that and having a family.

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And I'm asking a question that's very specific, which is -- and it can either be "yes" or "no" or you don't know, it seems to me.

The question again is: Is one of the reasons why you gave up drinking alcohol when you did in 1988 was that you were considering your own personal health?

A. Alcohol alters your thinking and we wanted to raise a family. We chose to live sober so that we could raise children in an alcohol-free home.

Q. So are you saying that --

00493

A. I don't --

Q. -- that your personal health was not a consideration, or one of the reasons why you elected to stop drinking when you did in 1988?

A. I wasn't unhealthy from drinking, so personal health -- it was a choice I made.

JUSTICE DOSSE: Do you want to renew your objection?

MS. CHABER: I'd like renew my objection.

JUSTICE DOSSE: Anything further on that?

MR. BARRON: No. I'm going to move on, anyway.

JUSTICE DOSSE: All right. The objection would be sustained at this point.

MR. BARRON: Your Honor, I don't mean to come up against a ruling, but let me just try this. If you think you've ruled on this, that's fine.

Q. But when you say to have a family was one of the considerations or reasons for you deciding to stop drinking when you did in 1988, that were you to go on and become pregnant to have children, it would be better for your pregnancy, or better for your child who was to be born, not to have you con assuming alcohol during your pregnancy?

A. It would be better as a -- a lifestyle in -- in general to be sober. That's my answer.

Q. You were not thinking of --

00494

A. Specifics.

Q. -- actually physically improving your body at the time of pregnancy or improving the child that would be in your body during the pregnancy, is that correct?

MS. CHABER: I am going to object, your Honor, this has been asked, answered.

JUSTICE DOSSE: Sustained.

MR. BARRON: Q. I want to change the subject, and I am saying that so you can mentally make the shift.

I'd like to talk about some of your relatives for a moment. Okay? Linda Whitaker is related to you, how?

A. If I --

Q. Or was related to you how?

A. If you are talking about my -- my dad's mother.

Q. Did Linda Whitaker die in March of 1973?

A. I guess. I mean, I'm not -- I don't know the exact date by memory.

Q. Did she -- did she die in the early '70s some time, to your recollection?

A. Yes.

Q. And -- I'm sorry -- she was your grandmother on your father's side?

A. Yes.

Q. And was she a smoker?

A. Not that I know of. I never met her.

00495

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Q. Did you ever learn what the cause of her death was?
A. Yes.
Q. What was your understanding?
A. Well --
MS. CHABER: They have the death certificate. We gave it to them.
THE WITNESS: Yes.
MR. BARRON: Q. Well, I am asking for your understanding because it may not be the same as a death certificate. You may not know about it, that's all?
THE WITNESS: Well, I got it from the death certificate.
MR. BARRON: Q. Okay. I didn't know that until you told me.
So you did not know from what she died until you saw the death certificate?
A. I had been told that she had, I think it was mouth cancer.
Q. A relative of yours was William Whitaker?
A. That's my dad's father, if it's the William Whitaker you are speaking of.
Q. And he passed away in 1952, I am looking at here. Not holding you to a specific date, would that be the one you are thinking of who passed away in the early 1950s?

00496

A. Yes.
Q. And was he a smoker?
A. I was told he smoked a pipe.
Q. And did you ever learn from what he died?
A. Yes.
Q. And when did you learn that?
A. From death certificates.
Q. When?
A. Whenever I got it. When I was doing my genealogy. I don't remember when I actually received his death certain kit in the mail, is that what you are asking?
Q. Are you talking about some time recently when you've been involved with this lawsuit?
A. No, no.
Q. Well --
A. Not on him, but what -- what I am saying is, I don't remember when I ordered his death certificate and got his death certificate in the mail, not for this lawsuit, for doing my -- for doing genealogy --
Q. Okay.
A. -- research.
Q. And I don't know when you did that. I don't think that's been established yet.
So can you give me your best recollection as to when it was that you did that?

00497

A. In the last seven years.
Q. And when you got his death certificate, did you look to see from what he died, what the cause of death was that was listed?
A. I think it just says carcinoma. I'm -- I'm not exactly sure exactly what it says.
Q. And when you saw that, did you know what that was?
A. Carcinoma?
Q. Yes.
A. Cancer.
Q. And that's what you knew when you saw the death

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certificate?
A. Yes.
Q. Did you ever ask whether he was a smoker or not?
A. A smoker?
Q. Yes.
A. No.
Q. Of cigarettes.
A. No.
Q. But you knew he was, you thought a smoker of pipes?
A. Yeah. Because my dad had told me a story about packing his pipe full of match heads and then handing him the lighter -- the match to light it.
Q. Now, I'm not going to try to pronounce this

00498

because I would probably mispronounce it and I don't want to do that. I-N-E-S, is the first name.
A. Ines.
Q. That's what I thought. I would have been right on that.
A. Depending whether you are from Texas.
Q. And H-O-X-S-I-E.
A. Hoxsie.
Q. And how is she related to you?
A. She is -- was my grandmother. My mother's mother.
Q. And she passed way, I'm looking at the date of January of 1995. Does that sound about right?
A. Yes.
Q. Do you know from what she passed away?
A. Only recently. Nobody really knew until recently when I acquired her death certificate.
Q. When you say recently," what do you mean?
A. Recently, within the last two weeks, because you guys requested this stuff.
Q. Ray L. Roberson is related to you?
A. He was my grandfather, yes.
Q. I have here that he passed away in March of 1968. Does that sound right to you?
A. Yes.
Q. And did you ever learn what the cause of his death

00499

was?
A. Yes recently when I received his death certificate within days of my grandmother's.
Q. Was he a smoker?
A. I believe so.
Q. Of cigarettes?
A. Yes.
Q. Roy Whitaker is related to you, is he?
A. My dad's -- he was my dad's oldest brother.
Q. And it looks from what I am looking at, that he passed away in July of 1977. Does that sound about right?
A. I -- I suppose. I'm not familiar with him.
Q. Was he a smoker?
A. I was told he smoked.
Q. Of cigarettes?
A. Yes.
Q. Do you know from what he died?
A. I -- I just learned since I've been here that he died of lung cancer.
Q. When you say since you've been here, you mean the last few weeks as part of --
A. No. Since I've been here in San Francisco, here

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at this deposition, because the -- his death certificate came in the mail while I was here.
Q. Mr. Grant Whitaker is related to you, also, and it
00500
looks like he is a paternal great uncle. Does that sound right?
A. Yes.
Q. And it looks as if he passed away in 1939?
A. Yes.
Q. Does that sound correct?
A. Yes.
Q. Was he a smoker of cigarettes?
A. I have no idea. I never knew him, and I didn't even know he existed.
Q. Until recently when you were looking at material that was being gathered for this --
A. No. Until I found him when I was doing my genealogy.
Q. Okay. That was that seven or eight years ago?
A. Yes. Within the last seven, eight years I've been doing this.
Q. And did you acquire a death certificate for him as you were doing this genealogy?
A. Yes.
Q. And it showed, did it, that he died of lung cancer?
A. Yes.
Q. Do you know of any cousins of yours who are cigarette smokers?
00501
A. Cousins?
Q. Yes. Or whoever have been.
A. Yes.
Q. Do you know of any who have quit smoking?
A. Cousins that quit smoking? I don't know.
Q. Before you were diagnosed with lung cancer in June of 1998, other than what we've already just talked about in terms of your knowledge of relatives and the cause of their death, what relatives, if any, were you aware of who had ever died of cancer?
A. Whoever died of cancer? I -- well, I knew that my grandparents had, the two Whitakers.
Q. I wasn't asking you to go over what we went over.
A. Well, that's --
Q. And I don't mean to interrupt you. I just was trying to save you the effort of -- and point out that it's -- I'm only asking for anything other than what we have already just talked about.
A. Any other relatives?
Q. Yes,. Do you know of any other relatives who have ever died of cancer?
MS. CHABER: Other than the ones we've already given them --
THE WITNESS: Not that I -- no.
Yes, there is my -- a cousin had breast cancer
00502
in -- she lived -- I believe she lived in Oregon. Her name was Jane. I can't think of her last name. She's my dad's first cousin, but it was breast cancer, I believe.
MR. BARRON: Do you want to take a break and keep going, or what do you want to do? We can go another hour or so, I think 45 minutes. We have gone -- I have lost track of time.

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MS. CHABER: We have been going only 40 minutes. I don't know. Do you want to keep going, call it a day?
THE WITNESS: I guess. Get this over with.
MS. CHABER: I know. She wants to get this over with.
MR. BARRON: Okay.
MS. CHABER: Let's keep going. I'm assuming that --
JUSTICE DOSSE: No. That's fine with me. I mean, is that --
THE WITNESS: I think we all want to get it over with.
JUSTICE DOSSE: Do you think you have 40 minutes left totally?
MR. BARRON: Forty minutes left totally?
MS. CHABER: Could we finish tonight? No. We are on the record. Do you think it would be --
MR. BARRON: Yeah, it's possible, and -- it's

00503

possible. I just don't want to --
MS. CHABER: That we could finish night?
MR. BARRON: Yes. But also, what I can give you is a guarantee that we'll finish tomorrow and --
MS. CHABER: Yeah. I --
MR. BARRON: Let me --
MS. CHABER: That we already have -- that promise, I already got from you.
JUSTICE DOSSE: All right.
MR. BARRON: Well, I understand. What I am trying to do is -- let me just be clear is, I don't know precisely how much longer. I just want to take a look at a couple of notes, and I'm leaving it really to you and the Judge. I'd be happy to go forward.
And really, it's your client's and your choice. I don't want to make this, you know, the march from Baton.
MR. BROWN: Too late.
THE WITNESS: Thank you. You beat me to it.
JUSTICE DOSSE: You are still on the record.
I have no objection. And it's up to your client.
THE WITNESS: I can stand another 40 minutes, if that's what you can do it in.
MR. BARRON: And that's what you'd prefer?
THE WITNESS: I would rather get this over with.
MR. BARRON: Okay. Why don't we do this. Why

00504

don't we take five minutes or seven minutes, stretch, and I will do my best to try to finish in that kind of a time frame.
MS. CHABER: I have maybe four minutes of re-direct.
THE WITNESS: I have four children who miss me very much.
MR. BARRON: Okay. Fair enough. And I will do my best and -- however, I do want to make sure that -- that you are clear, that if you are getting tired --
THE WITNESS: I was tired a long time ago, sir.
MR. BARRON: Well, what I mean by that, I'm tired, too.
THE WITNESS: Yes.
MR. BARRON: But I was going to say, tired to the point where you don't think you are giving your best answers, don't do me or you the disservice of doing that. We'll come back finish up very briefly in the morning and

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try to get you on an early flight, but I will try to finish. Okay?

VIDEO OPERATOR: This is the end of tape 3, volume 3 in the deposition of Leslie Whiteley. Going off record. The time is 5:40.

(Recess taken from 5:40 to 5:59.)

VIDEO OPERATOR: This is the start of tape 4 of

00505

volume 3 of the deposition of Leslie Whiteley. Going on the record. The time is 5:59.

MR. BARRON: Q. Okay. Are you ready to proceed?

A. Yes.

Q. Okay. And I just want to make sure we all understand that we are doing this because you would prefer me trying to finish instead of coming back for a brief session tomorrow. I believe I can do that. I think maybe even I can get it done under the time estimate that I gave before we recessed. I can't guanantee it, but I am going to try.

But I want to emphasize that even though you prefer to have us finish today, I don't want you to keep going if you are having difficulty giving your best and most accurate answers.

A. Okay.

Q. Okay? So you'll still have to be the one to let me know. And if we have to come back for 10 or 15 minutes tomorrow, we'll do that, and we'll still get you on an early flight home. But I really think we can do it as long as you are physically and mentally able. Okay?

A. Yes.

Q. All right. Speaking again of the first serious attempt to quit smoking that you made at the suggestion of Leonard, the one -- this was before your and his trip to

00506

Yosemite, at any time during the time that you had stopped smoking and were attempting to quit, did anyone other than Leonard, and anyone in your own household, know that you were doing that?

A. The only other person in the household was my son Troy.

Q. Okay. Anybody outside the household know that you had made that effort while it was taking place?

A. Yes.

Q. Who else?

A. I believe my mother and my sister, Becky.

Q. Anyone else that you can think of?

A. No.

Q. Did anyone outside of your household, to your knowledge, know that Leonard was making an attempt?

A. I would assume they knew he was quitting with me. I --

Q. The same people?

A. Yes.

Q. Your mother and Becky?

A. Yes. And his mother may have known, also.

Q. You don't know that she did, you are just assuming that she probably did?

A. Yes.

Q. The time in February of 1988 when you made your

00507

second serious attempt to quit related to this period when you were --

A. '98.

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Q. Did I misspeak? I apologize.
A. That's all right.
Q. What did I say?
A. You said '88. See, I'm -- I'm getting better at my dates here.
Q. You are doing better right now than I am, aren't you? I appreciate you correcting me.
A. Can you go on?
Q. Well, I'm going to go on and --
MS. CHABER: Whether he can or not.
MR. BARRON: Q. Whether I can or not.
A. I'm sorry.
Q. And I'm worried about you and not me, and I want to accommodate you and I think we can do it, and I appreciate -- and I'll invite your lawyer to, also, catch me on misspeaking like that one date so we get an accurate transcript, but thank you. Okay.
When in February of 1998 you and Leonard made this serious attempt again to quit smoking, do you know of anyone outside of your own household who knew that you or he were making that effort?
A. My mother.

00508

Q. Anyone else?
A. I don't know. I don't recall. I don't recall getting on the phone and announcing it to anybody.
Q. Now, you mentioned earlier in answering one of your lawyer's questions, or questions, that when you were a youngster your mother may have had good housekeeping magazine around. Do I have this right, she may -- or Home &Gardens, is it?
A. Something -- something of the sort. She may have.
Q. You are not sure?
A. I'm not sure of the exact title of a magazine.
Q. But a magazine of that kind?
A. Most likely.
Q. Did you, while you were still living in your mom's house, and before you went off and got married, ever subscribe to a magazine?
A. Myself?
Q. Yes.
A. Not that I -- I don't know.
Q. Did any of your brothers or sisters subscribe to a magazine, to your knowledge, before you left the home when you did to get married?
A. I don't -- I don't know.
Q. Was there any magazine that you can remember around your household at any time with any regularity

00509

before you went off and got married for the first time in 1976, other than this magazine that your mother may have had, that was like Good Housekeeping or Home & Gardens, or whatever it might have been?
A. There was always National Geographics.
Q. Anything else that you can remember?
A. Not -- not specifically, but I do remember that she had a lot of National Geographics.
Q. Now, after you married in the summer of 1976, all the way more than 20 years later when you have been diagnosed with cancer, was there ever a time during that period of 20-plus years or so that you subscribed to a magazine?
A. Yes.

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Q. And when was the first time that you subscribed to one?
A. I don't know.
Q. Can you put it into any time frame, as to where you were living, or who your husband was, or anything like that?
A. No. I -- I only recall receiving them when I was with Leonard. That, I guess, is a time frame.
Q. Thank you.
And you used the word "them." Was there more than one that you subscribed to at some point with Leonard?

00510

A. Yes.
Q. Could you list for me those that you subscribed to?
A. Magazines?
Q. Yes.
A. Mother Earth News, Easy Rider. I believe Better Hoomes & Gardens. And there was another one, Country Folks, something of the sort.
Q. Have you completed your answer?
A. That I can remember.
Q. Yes.
A. That I can remember, yes, besides children's magazines for my children.
Q. Can you place in time when you began to subscribe to any of these any more specifically than you have, that it was some time when you were married to Leonard?
A. No, not specifically.
Q. Before you were married in 1976 and left the home with your husband eventually, at any time did your parents subscribe to a newspaper?
A. I suppose they did, yes.
Q. You saw one around
A. Yes.
Q. But you yourself weren't inclined to read it typically?

00511

A. I remember reading the newspaper, yes.
Q. What newspaper was it that was around the home?
A. [DELETED] News when we lived in [DELETED]. And I think it's the Ventura County Star Free Press.
Q. The last phrase, I didn't catch.
A. Ventura County Star Free Press.
Q. Thank you.
What about after you married in 1976 up until the time over 20 years later when you've had your diagnosis, during any of those periods, did you or your husband subscribe to a newspaper?
A. Yes.
Q. Could you specifically as you can tell me what newspapers and when?
A. The Ventura County Star, that newspaper is the one I subscribed to.
Q. Any others that either you or a husband subscribed to --
A. Not that I --
Q. -- during that 20 or 22-year period?
A. Not that I can recall.
Q. Before 1971, had there been any television program that you were particularly attached to, to the point that you were, from your standpoint, a regular watcher?
A. Attached to in 1971? I have no idea what was on

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TV then.
Q. Okay. The word "attached," may give you a certain connotation that I don't want to have. Let me rephrase it this way.
At any time, from the time you were born up to 1971, can you remember any television program that you regularly watched or thought of yourself as being a regular watcher?
A. Sheriff John.
Q. Any others?
A. To 1971, I don't know what was between there is that -- I just would watch cartoons. I -- we watched Sunday night Walt Disney.
We weren't -- I mostly spent all my time outside as a child playing. We weren't big television watchers.
Q. In that same time frame, from whenever you were old enough to remember starting to see any television, up to 1971, did you ever watch the news on television?
A. I don't know.
Q. Did you ever listen to the news on the radio during that same period?
A. In 1971?
Q. Not in 1971. At any time from the time you were born all the way up to 1971.
A. I can't honestly answer that question. I don't
00513
remember specifically what I heard at any given time from a radio.
Q. You would occasionally listen to the radio, however?
A. I don't remember. Before 1971? I -- I -- I didn't -- I don't know. I can't honestly answer that question. I -- that's a long time ago that you want me to specifically remember listening to a radio.
Q. If you can't, you can't.
A. I'm sure somebody had a radio on some time or another in a car or wherever, but I couldn't tell you it was on a Saturday in 1970, whatever.
Q. Now, after you were married in 1976, all the way up to the time where you were diagnosed with cancer over 20 years later, was there ever a time where you became what you thought as being a regular watcher of a TV program?
A. A regular watcher of a TV program?
Q. Yeah. Not meaning that you never missed a show, but thought of yourself as being a person who generally watched the show or tried to watch the show.
A. The only thing I can honestly say that I have been an avid watcher of is All My Children.
Q. During that same period of time, all the way from when you got married in 1976 up to the time over 20 years later when you were diagnosed with cancer, did you ever
00514
watch the news on television?
A. I have watched the news on TV, yes.
Q. Did you tend to watch local news or national news or both?
A. I -- I guess local and national. I am not -- I'm not a big news person.
Q. Can you describe, as best you can, what was your practice or involvement with news? In other words, you said you are not regular -- or not a big news watcher. How frequently would you watch it?

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A. I -- I can't honestly answer that, because I don't know how frequent -- frequently I watch the news.
Q. Did you have, if you were going to watch the news, a national news broadcaster on TV that you tended to see more than another?
A. No. I -- like I said, I specifically can't tell you that I sat down and watched news as a routine. That was not part of my routine. Even now, it's not.
Q. And I'm not suggesting sitting down watching it from start to finish, but having either you turn it on or your husband turn it on, seeing parts of it, hearing some of it when you are in the kitchen, or anything like that. Did you do that with any regularity at all in any of the years from 1976 up to the time you were diagnosed with cancer?

00515

A. Regularity?
Q. Well, again, you are trying to pick on a word.
A. Again, I never watched the news on a regular basis, and I'm real selective on -- on whether I want to hear good news or bad news, you know. I don't want to hear about murderers and -- and -- and all that. So I -- it's negative media, is not something I like to flood my mind with.
Q. You mentioned, in answering one of your lawyer's questions, that following the time that you were diagnosed with cancer, you got involved in some way with the American Cancer Society, is that correct?
A. Yes.
Q. And were there some other organizations that you got involved with also following the time you were diagnosed with cancer?
A. Other organizations, as in -- I sent away for information from L Case.
Q. And what is that?
A. It's an organization for lung cancer patients and their families.
Q. Any other organization or entity with which you got involved following your diagnosis?
A. What's an "entity"? It sounds like Star Wars.
Q. Yeah. It is a word that lawyers often use, judges

00516

even often use it. It means an organization.
A. An organization?
Q. Yes.
A. No. I am not involved in any organization so to speak, except that I volunteered my time for the American Cancer Society.
Q. Before your diagnosis with lung cancer, had you volunteered in the past at any time in your whole life with any public service organization?
A. Maybe just at school and stuff. I -- I don't -- honestly thinking about it, any other public organization.
Q. Public service.
A. Not that I can think of right now.
Q. Like the American Cancer Society, or any other health organization or --
A. Before I was diagnosed with cancer? No, not that I can remember.
Q. Okay. Switching subjects again.
I want to ask you some questions about how you actually smoked cigarettes. And I want to start with Marlboros, because there may or may not have been a

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difference, considering what brand you happened to be smoking.
So when you smoked Marlboros, do you know generally how many puffs you would take of each cigarette?

00517

A. No. I never counted. I don't think I was that bored.
Q. Do you know how close to the end of the cigarette you would smoke the Marlboros?
A. I don't know.
Q. Can you describe or show us with, for example, the pen that your lawyer has next to her, how you would hold the cigarette, meaning the Marlboro?
A. I don't know if it was a Marlboro how I held it, but you'd hold a cigarette (indicating). I guess I'm used to the 100s, huh?
Q. Now, you are tending to hold that --
A. You are asking me to do something that -- I just picked this up and held it.
Q. I understand. And now, I want to --
MS. CHABER: Give me my pen back.
MR. BARRON: Q. -- ask you about Camel regulars. Would your answers be any different for Camel regulars? For example, do you know how many puffs of a Camel regular you would take?
A. I have no idea.
Q. Do you know how close to the end of the cigarette you smoked when you smoked the Camel regulars?
A. Not real close on those.
Q. And why was that?

00518

A. I'd get burned.
Q. And did you hold the Camel regulars any differently than you just showed us on the video as to the way you held the Marlboros?
A. I don't remember. I -- I couldn't honestly answer that.
Q. Next, I believe in the order in which you smoked them, were the Camel Lights, if I'm correct. Am I?
A. Yes.
Q. Do you know how many puffs you would take generally of the Camel Lights --
A. No.
Q. -- if you smoked it to completion?
A. No.
Q. Do you know how close to the end you would smoke the Camel Lights?
A. I don't remember.
Q. Did you hold the Camel Lights, to the best of your recollection, in the same way that you held the Marlboros?
A. I suppose.
Q. Camel 100 Lights were the next cigarette in chronology that you smoked, is that correct?
A. Yes.
Q. When you smoked the Camel Lights, do you know generally how many puffs of each cigarette you took, if you

00519

smoked the cigarette to completion?
A. No, I don't. I never counted it.
Q. How close to the end of the Camel 100 Lights would you smoke those, if you smoked them to completion?
A. Now, that I do remember. It was about this far from the -- the filter (indicating) and I just (indicating)

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put them out.
Q. To the best of your recollection, did you hold the Camel Hundred Lights as you showed us you held the Marlboro cigarette?
A. I suppose. I never paid any attention to how I held a cigarette.
Q. You don't remember changing the way you held cigarettes?
A. No.
Q. You know, whether -- I mean, there are some people who cup the cigarette backwards in the movies, and Marlon Brando or Humphrey Bogart would occasionally, when they smoked, had certain styles.
A. That's before my time, guy.
Q. Okay. You've dated me now -- or I've dated myself, and I apologize.
A. No, I didn't date you.
Q. That's a -- that's an example of good wit, and I mean that sincerely.

00520

I've exposed my own age, I suppose, with your help.
All I'm trying to get at is, you have seen people have different styles in the way in which they held cigarettes?
A. I -- I guess, yes.
Q. And you don't remember intentionally changing your style from the way you showed me you held the Marlboros, is that correct?
A. No. I -- I don't even remember how I -- you just asked me to pick that up. I don't -- couldn't even tell you what I looked like smoking, you know. Holding a cigarette is not something you think about it.
Q. In those photographs you spoke about earlier that shows you smoking or with a cigarette in your hand, and the early ones especially when you thought you were 15 or 16 or 17, do you remember who it was that took those photographs?
A. Dean did. He took some. I'm not sure who took all of them. My sister took one of them.
Q. Were your parents, or either one of them present, when any of those photographs were taken?
A. Which photographs?
Q. You may look at the book again.
A. Yes.
Q. The early ones where you were younger and involved

00521

with smoking in the photograph.
A. No. Just me and my sister were here.
Q. Okay. You are looking at 3-A now?
A. Yes.
Q. Okay. And then 3-B?
A. Dean took this one.
Q. Okay.
A. And I suppose Dean took this one, since he's not in the picture. This is -- did you want to go through that?
Q. May I see that just for a moment, the book, and then I'll hand it right back to you.
A. Yes.
Q. As we talked about earlier, I can't see all this far over there. Let me show what you has been marked as 3-D, indicates that it was taken in November of 1976 and you were 17.

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A. Those were --
Q. And who took that one?
A. This one?
Q. No. The one on --
A. This one?
Q. Correct, on your left side, 3-D, it's labeled.
A. I'm not sure. That was taken in Hawaii. It could have been taken by Dean or by somebody else in my family

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that was on vacation with us.
Q. Now, on the right-hand side, there's, I think, 3-E, and I think it indicates that it was taken when you were 16 years old?
A. Yes.
Q. And who took that one?
A. Dean. I believe he did.
Q. When you received permission from your parents to marry before you turned 18, did you and your parents discuss at all whether it was advisable or not for you for marry at that age?
A. No.
Q. You had to receive permission, I understood you to say in answering your lawyer's question, and you had to receive that permission from your parents?
A. Yes. She wrote a note for me to take with me when I went to Virginia --
Q. Did --
A. -- giving me permission.
Q. Was there any talk at all between the two of you as to whether you were old enough to make that decision, or whether you seemed to be -- seemed to her to be mature enough, or anything like that?
A. Her stand was that she would rather I do what I thought would make me happy. Is that what you are after?

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That --
Q. It's what she said --
A. Yes.
Q. -- that's what I'd like to know.
A. Yes.
Q. Okay.
A. Can I shut these?
Q. Thank you for reminding me. Can I just look at them for a minute and see if there are any others of those early years? Yes, you may. And I'll hand them back to you.
A. Thank you.
Q. You are welcome.
Have you been seen, diagnosed or treated for medical conditions in your whole life only by doctors in the Ventura County area?
A. No.
Q. Where else?
A. I -- I went to a scoliosis clinic in Norfolk, Virginia, I believe that's where it was located.
And I -- I had gone to a -- the base doctor there for -- I -- I was constipated really bad. And that's as far as I can remember back there.
Q. Have you completed your answer for all the places you were seen, other than Ventura County?

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A. I believe in Santa Maria I went to a clinic because I had an infected ears.

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Q. When was that? Not the precise date, but if you could place it in terms of your activities or a time frame.
A. In the '80s, I -- some time.
Q. Do you remember the name of that clinic?
A. No, I don't.
Q. The place in Norfork -- Norfolk, Virginia, was that associated with the Navy?
A. Yes.
Q. Was it an actual Naval facility?
A. Yes, it was.
Q. Do you know of any people who reside, meaning live in San Francisco County, that you believe have information in any way connected to your situation for which this lawsuit has been brought?
A. San Francisco? What? What was the question again? I --
Q. Do you -- yes. Do you know of anyone who lives in San Francisco County that you think might have any information that is connected to your lawsuit, the one we are here today on?
A. I'm -- I don't know.
Q. You don't know of any?
A. I don't know. I -- lawsuit -- this lawsuit?

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Q. This is a lawsuit, yes.
A. I have a girlfriend who knows I'm here that lives wherever Humphrey swam up the river. She knows I'm here for a deposition.
Q. Other than that, anybody at all that you know of that has any information that might relate, in your mind, to this case that you have?
A. Here?
Q. That lives in San Francisco County.
A. [DELETED]
Q. Other than that?
A. Not that I'm aware of.
MR. BARRON: All right. I am going to take off my mike because I have no further questions at this time. Thank you very much. And I appreciate your effort, and I hope we can let you end for the day soon. It doesn't look like anybody.
MS. CHABER: Somebody does.
MS. SINGAL: I just have one question.
JUSTICE DOSSE: Could you state your appearance?
EXAMINATION BY MS. SINGAL
MS. SINGAL: Sure. Sangeeta Singal, appearing for certain named and served CCR defendants.
Q. Have you ever had pneumonia?
A. I don't know.

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Q. Have you ever been diagnosed as having pneumonia?
A. Specifically, I don't -- I can't honestly answer that, that that was what I had. You would have to check my medical records.
Q. Okay. But --
A. But I -- I can't -- what I am saying is verbally now, I can't tell you yes, that's what I had; no, that's not what I didn't have.
You would have to look at my medical records for a truthful answer on that.
Q. Okay. And when you say that -- that's -- you can't say that that was what you had or what you didn't have, are you referring to a specific illness that you did

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have?
A. You just asked me if I ever had pneumonia. That is a specific illness, isn't it?
Q. Yes.
A. And I answered I don't know, you would have to check my medical records.
MS. SINGAL: Okay. Thank you.
THE WITNESS: You are welcome.
JUSTICE DOSSE: Anything further?
MS. CHABER: I have like two minutes. Just switch with me, just because I don't want her to have to turn --
MR. BARRON: Sure. Do you me to actually switch

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or just slide over?
MS. CHABER: You can just slide over.
MR. BARRON: Sure.
MS. CHABER: Very fast.
EXAMINATION BY MS. CHABER
MS. CHABER: Q. Leslie, by the time you graduated high school, were you a regular cigarette smoker?
A. I would say yes.
Q. Did you smoke cigarettes every day by the time you had graduated high school?
A. Yes.
Q. You were asked a number of questions about hearing a tobacco company executive, or someone who you knew worked for a tobacco company talking about cigarettes. Do you remember -- it was about two days ago.
A. Yes.
Q. And the only specific incidents you could recall was the 994 Congressional Hearings that you described --
MR. BARRON: Objection. Leading, suggestive.
MS. CHABER: Q. -- is that right?
JUSTICE DOSSE: Sustained.
MS. CHABER: Q. When you were asked about specific incidences, did you recall any specific instances of hearing somebody who said they were representing a tobacco company talk about the safety or not safety of

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cigarettes?
MR. BARRON: Objection. Number one, mischaracterizess the record and, therefore, lack of foundation; and number two, leading and suggestive.
JUSTICE DOSSE: Overruled.
You can answer that question.
THE WITNESS: A specific --
MS. CHABER: Q. A specific time that you recall actually hearing a -- someone indicating they were on behalf of a tobacco company saying something about cigarettes.
MR. BARRON: Objection. Now it's vague and ambiguous, as well as the other objections I have.
JUSTICE DOSSE: Overruled.
THE WITNESS: You are asking me for a specific time that I heard something?
MS. CHABER: Q. Yes.
A. I can't recall a specific time that I actually heard something.
Q. You had testified that you believed that the tobacco companies had said that it was safe to smoke. Do you recall that testimony?
A. Yes.
Q. What was the source or the basis for your belief

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that the tobacco companies had said it was safe to smoke?
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A. It must have been a media or -- or TV, or I read it somewhere.
Q. Do you have knowledge of specific time periods of remembering hearing this?
A. No specific time periods.
Q. Do you have a general knowledge about having heard that, that the tobacco companies were saying it was safe to smoke?
A. No, just that I must have read it or heard it or -- heard it on the radio or TV, or read it somewhere. I can't say when.
Q. And why did you believe the tobacco companies that smoking cigarettes was safe?
MR. BARRON: Objection. Mischaracterizes the testimony and lack of -- therefore, foundation and leading and suggestive.
JUSTICE DOSSE: On foundation again, objection sustained.
MS. CHABER: Q. You had a belief that the tobacco companies had said it was safe to smoke, is that correct?
A. Yes.
MR. BARRON: Objection. I couldn't get my objection in. The question is leading and suggestive.
JUSTICE DOSSE: Objection. The overruled.
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MS. CHABER: Q. Is that correct, that you had a belief?
A. Yes.
Q. What I am trying to understand is what formed your belief that the tobacco companies had said it was safe?
MR. BARRON: Objection. Vague and ambiguous as to the phrase "formed." It is repetitive. It is the same question as source of belief, which was the earlier phrase to which she answered.
JUSTICE DOSSE: Overruled.
You can answer the question.
THE WITNESS: I feel they manufactured cigarettes so they -- they made them so they knew what they did to people or didn't do to people, so I believed them.
MS. CHABER: I have nothing further.
JUSTICE DOSSE: Any further questions?
VIDEO OPERATOR: This is the end of the deposition of --
MS. CHABER: No.
EXAMINATION BY MR. BARRON
MR. BARRON: Q. When answering your lawyer's question just a moment ago about the source of your belief, and when you stated it must have been the media, TV or read it somewhere, do you know if you, in fact, actually ever read anything anywhere as opposed to getting it through the
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media or TV?
A. Probably all of it. And I have even answered your questions that I subscribed to the newspaper myself, and occasionally watched news and listened to it.
Q. Can you point to any statement that you believe you ever read in a newspaper, that in the newspaper was stated or indicated that -- the statement was a statement made by a tobacco company person?
A. Not in any particular instance that I can

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remember.
Q. And except for the 1994 -- correction -- except for the episode that we spoke about fairly extensively concerning tobacco people on television and reports about their comments concerning nicotine and whether it was addictive or not, can you point to any statement ever made on television which purportedly was a statement made by a tobacco company person?
A. Not a particular one.
MR. BARRON: Thank you. I have no further questions at this time.
JUSTICE DOSSE: Anything further by anyone? All right. The questioning is ended.
VIDEO OPERATOR: This is the end of the deposition of Leslie Whiteley. Total number of tapes used were eight.
All original videotapes will be held at Tooker &
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Antz, 818 Mission Street, fifth floor, San Francisco, California 94103. 415-392-0650.
Going off the record. The time is 6:41.
(Whereupon the deposition was concluded at 6:41 p.m.)
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DATE LESLIE WHITELEY

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